

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 316 OF 2024

Geeta Ramakant Acharya ...Deceased

Mandar Ramakant Acharya ...Petitioner

Mr Hemant Ghadigaonkar, *with Sameer Logade, for the Petitioner.*
Mr Dharmendra Gupta, *with Siraj Faruk Ghiwala, for the Objector/*
Respondent.

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CORAM. ARIF S. DOCTOR, J
DATED: 11TH FEBRUARY 2025

PC:-

1. The Petitioner seeks the grant of a Legal Heirship Certificate under the provisions of Section 2 of the Bombay Regulation VIII of 1827 in respect of one Geeta Ramakant Acharya ("**the deceased**"), who died in Mumbai on 21st August 1990. A copy of the Death Certificate is annexed to the Miscellaneous Petition. It is stated that despite due and diligent search, no Will of the deceased has been found. It is therefore assumed that the deceased died intestate.

2. The deceased left behind him surviving as his only heirs and next of kin according to Hindu Succession Act, 1956, the persons mentioned in the table in paragraph 4 of the Petition.

3. Learned Counsel appearing on behalf of the Petitioner points out that the grant of Legal Heirship Certificate has been objected to only by the father of the Petitioner, i.e., who is the husband of the deceased. Learned Counsel for the Petitioner invites my attention to the Affidavit in Reply filed by the Objector/Respondent and points out that the Objector has in fact in paragraph 5 of the said Affidavit admitted that all the parties listed in the table below paragraph 4 of the present Miscellaneous Petition are in fact legal heirs of the deceased. Given this, he submits that it is the case of the Objector/Respondent himself that Petitioners are entitled to the grant of Legal Heirship Certificate.

4. Learned Counsel appearing on behalf of the Objector/Respondent submits that after the death of the deceased, the Share Certificate in respect of flat in Laxmi Ratan Cooperative Housing Society was transferred in the name of the Objector/Respondent on 11th November 1990 itself. He submits that the Petition does not disclose the reason for which the Legal Heirship Certificate has been sought for and nor does it explain why the Petitioner has approached this Court after a gap of 34 years. It is on this ground that the grant of Legal Heirship Certificate is opposed.

5. After having heard Learned Counsel, I found that there is today no dispute before me as to the fact that the individuals mentioned in a table below paragraph 4 of the Miscellaneous Petition are in fact legal

heirs of the deceased. The Objector/Respondent has specifically in his Affidavit accepted that they are all the legal heirs of the deceased and each of them has 1/4th share in the asset of the deceased.

6. Given this and the limited scope of a Legal Heirship Certificate, I find no reason not to allow the present Petition. The Interim Application is, therefore, allowed in terms of prayer clause (a), which reads thus:

“(a) That a Legal Heirship Certificate be issued, certifying that Ramakant Raghavendra Acharya, Shilpa Khandelwal, Neela Ramakant Acharya and Mandar Ramakant Acharya are the heirs and legal representatives of the deceased abovenamed under the provision of Bombay Regulation Act VIII of 1827.”

7. The Registry shall issue the Legal Heirship Certificate in the standard format prescribed for the same.

8. The Miscellaneous Petition is accordingly disposed of.

9. Needless to state that any claim in respect of the flat would not lie with the purview of these proceedings. In the event any claim is to be made in respect of any of the properties/assets of the deceased, the same shall be made in accordance with the law and shall be decided on their own merits.

(ARIF S. DOCTOR, J)