

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

MISC. PETITION NO. 304 OF 2025

Dahiben Maganlal Patel .. Deceased

Harshila Ramesh Arsanian .. Petitioner

.....

- Mr. Uttam Rane, Advocate for Petitioner
- Mr. Rajkiran Jadhav, Advocate for Intervener

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 19, 2025

P. C.:

1. Heard Mr. Rane, learned Advocate for Petitioner and Mr. Jadhav, learned Advocate for Interveners.

2. Mr. Jadhav has been appointed through the Legal Aid to represent and espouse the cause of Interveners who are legal heirs of deceased.

3. Petition is filed for seeking Legal Heirship Certificate by Petitioner - Harshila Ramesh Arsanian. She is the married daughter of deceased Dahiben Maganlal Patel who expired on 20.07.2024. Dahiben's husband has predeceased her on 21.11.2013. Deceased is survived by Petitioner daughter and legal heirs of deceased's son Girish. Girish expired on 19.09.2017. Girish is survived by his wife Varsha Patel and his son and daughter named Shreyas and Shreya.

4. Shreyas is present in Court before me and I have interacted with him. I have perused record of the case and heard learned Advocates appearing for the parties.

5. At the outset, Shreyas has expressed anxiety that husband of Petitioner namely Ramesh Arsanian may create issues with respect to the subject flat in which they are residing which stands in the name of the deceased. Mr. Rane would submit that in view of the above facts, Petitioner Harshila and deceased son Girish are entitled to 50% share in the property and credits of deceased Dahiben. He would submit that 50% share of Girish would be disbursed to the extent of 25% each between Shreyas and Shreya. He would submit that Petitioner does not dispute 50% share to which Shreyas and Shreya are entitled to. Both Shreyas and Shreya are twins and studying in the Third year in Degree College.

6. The apprehension expressed by Shreyas is that if Harshila Arsanian's share is shown to the extent of 50%, then there is likelihood that her husband may trouble them for that 50% share. Hence he has prayed to the Court to pass restraint order against Ramesh Arsanian or Harshila. In that regard this Court cannot do anything. Parties will have to settle their civil disputes with respect to the property of deceased in the Civil Court. By virtue of declaring heirship, this Court is not declaring the shares of parties in the property and credits of

deceased. This shall be noted by all parties before me who are legal heirs of deceased. What this Court is essentially declaring is that that the 3 parties namely Harshila, Shreyas and Shreya are entitled to said shares being legal heirs of the deceased and to that extent only legal heirship certificate is issued. Issuance of legal heirship certificate shall not and cannot be treated as determination of title by this Court of the three parties before me. If parties have to ascertain and determine their right and share in respect of the immovable properties belonging to deceased, they shall have take recourse to the Civil Court as available to them in law.

7. In view of the above, there can be no impediment in allowing the Petition. Misc. Petition is allowed and disposed of in terms of prayer clauses (a) which read thus:-

"(a) That Legal Heirship Certificate in the form of Appendix of the Bombay Regulation VIII of 1827 be granted to the Petitioner i.e. (1) HARSHILA RAMESH ARSANIA and (2) SHREYAS GIRISH PATEL, (3) SHREYA GIRISH PATEL declaring that legal heirs of the Deceased Late DAHIBEN MAGANLAL PATEL and to entitle entire estate of the deceased which is more particularly mentioned in the Schedule I herein at Exhibit "F" to the present petition in their respective proportion mentioned under the law.

8. Issuance of proclamation stands dispensed with.

9. Department is directed to issue the legal heirship certificate as directed above within a period of 4 weeks from today positively.

10. Needless to state that appearance of name of Petitioner Harshila Ramesh Arsanias as the first name in the Legal Heirship Certificate will not give her any peremptory or prioritized right in respect of the property of the deceased. All that this Court has issued and declared is that three parties before me are the legal heirs of deceased Dahiben Maganlal Patel.

11. Misc. Petition is allowed and disposed subject to compliance of office objections, if any, forthwith which shall be allowed by the Department.

12. Fees be paid to Mr. Jadhav, learned Advocate appointed through the Legal Aid by the Department as per rules forthwith on production of server copy of this order on due compliance.

[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
MOHAN
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Date:
2025.09.19
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