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

MISCELLANEOUS PETITION NO. 698 OF 2026

Sanjay Narang & Ors.

„„Petitioner

Versus

Manoharlal sewaram Narang alias

Manu Narang

...Deceased

Mr. Aurup Dasgupta a/w. Ms. Drshika Hemnani and Mr. Rishad Mehta
i/b. Jhangiani Narula and Associates, Advocate for Petitioner.

CORAM: AARTI SATHE, J.

DATE: 15th June 2026

P.C.

1. Heard Mr. Aurup Dasgupta, learned counsel for the Petitioner.
2. By this petition filed under the provisions of Bombay Regulation VIII of 1827, the Petitioner seeks issuance of legal heirship certificate in favour of the surviving legal heirs of the deceased.
3. The deceased was the father of the Petitioners and expired on 27th April 2001. A copy of his death certificate is annexed to the petition. It is stated that at the time of his demise, the deceased was residing and had a fixed place of abode at 18-B Lands End, Doongersi Road, Mumbai-400 006. It is also stated that the deceased died after making a Will dated 19th June 1995 which has been duly probated by this Court on 21st February 2003 in Testamentary Petition No.293 of 2002. It is submitted that the deceased was a tenant of premises being 16-A, 2nd Floor Sundar Nagar Market, New Delhi – 110003 (hereinafter referred to as ‘the

presmies of the deceased'). It is also submitted that the said premises was not mentioned in the Will dated 19th June 1995 and therefore did not appear in the schedule attatched to the Probate issued by this Court in the aforementioned Testamentary Petition No. 293 of 2002. It is submitted that the deceased died intestate with regard to the abovementioned premises. It is also submitted that in 2017 the premises of the deceased was sealed by the Supreme Court monitoring committee constituted by the Supreme Court of India.

4. In paragraph No.5 of the petition the Petitioners have given information about surviving legal heirs i.e. the Petitioners herein. It is specifically submitted that the parents of the deceased had predeceased him. It is also submitted that Mr.Ashok Narang (Son of the deceased) had also expired in 2010. The Petitioners further submit that since they are the only surviving legal heirs, there are no consent affidavits of any other legal heirs, and in lieu thereof, the requirement of service of proclamation/citation/ notice is not to be made.

5. It is stated that the legal heirship certificate is required to be produced before the Supreme Court for de-sealing of the said premises of the deceased.

6. It is stated that no other petition for heirship certificate, succession certificate, probate or letters of administration with or without Will have been filed, except Testamentary Petition No.293 of 2002 for probate of the Will of the deceased. There is, therefore no impediment to the grant of the relief.

7. The deceased died on 27th April 2001, and the present Petition was filed on 4th May 2026. Since there is a long gap in the date of the death of the Deceased and the date of filing the present Petition, and assuming there is a delay, the delay

has to be condoned pursuant to the decision of this Court in **Ganpati Vinayak Achwal**¹ wherein it was held that the right to apply is a continuous right which is capable of being exercised as long as the object of the trust exists, or any part of the trust, if created, remains to be executed. Being a continuous right, it can be exercised at any time after the death of the deceased, as long as the right to do so exists. The right to apply may, therefore, accrue not necessarily within 3 years from the date of the deceased's death but when it becomes necessary to apply, which may be any time after the death of the deceased, be it after several years.

8. A similar view was taken by this Court in **Vasudev Daulataram Sadarangani Vs. Sajni Prem Lalwani**², and by the Madras High Court in **S. Krishnaswami, E. Devarajan v. E. Ramiah**³. In Vasudev Daulataram (supra), this Court held that the Limitation Act 1963, would not apply in the matter of grant of probate or letters of administration as the right to apply is a recurring one. Relevant excerpts of the judgment in Vasudev Daulataram (supra) are as under :

“8. As regards the applicability of section 137 of the Limitation Act to the petitioners application, Mr. Badgujar relying upon the decision of this Court in the case of Vasudev Daulataram Sadarangani v. Sajni Prem Lalwani, reported in 1984 (1) BCR 211, and the decision of the Madras High Court in the case of S. Krishnaswami, E. Devarajan v. E. Ramiah, reported in AIR 1991 Mad. 214, submits that the right being a continuous right, it does not get barred by the law of limitation.

9. In the case of Vasudev Daulatram (supra), the petitioner had sought Letters of Administration with the Will of his father annexed. The same was objected to by the petitioner's sister and one of the grounds taken up by the sister was that the suit for Letters of Administration was barred by the law of limitation. While rejecting the contention our High Court observed as follows:—

“Under the Limitation Act, no period is advisedly prescribed within which a petition for probate or letters of administration or succession certificate must be made after the deceased's death. There is no

1 (2014)6Mh,L.J.683

21984 (1) BCR 211

3AIR 1991 Mad. 214

warrant for the assumption that the right to apply envisaged in Article 137 necessarily accrues on the date of the death of the deceased. Such an application is to seek the Court's imprimatur to perform a duty created by a Will or for recognition as a testamentary trustee. The right to apply is a continuous right which is capable of being exercised as long as the object of the trust exists or any part of the trust, if created, remains to be executed *Gananamuthu Upadesh v. Vana Koilpillai Nadan*, 5, ILR 17 Madras 379, 381. Being a continuous right, it can be exercised at any time after the death of the deceased, as long as the right to do so exists. The right to apply may, therefore, accrue not necessarily within 3 years from the date of the deceased's death but when it becomes necessary to apply, which may be any time after the death of the deceased, be it after several years.”

10. Identical view has been taken by the Madras High Court in *S.Krishnaswami's case* (supra) by holding that Article 137 of the Limitation Act, would not apply to proceedings filed for grant of probate or Letters of Administration with or without Will annexed, as the right to apply is a recurring one. Considering the nature of the proceedings, it further held that, such applications only seek recognition of the Court to perform duties and the proceedings filed for grant of probate or Letters of Administration is not an action in law.

11. I am in respectful agreement with the view expressed in the decisions cited. Though the decisions relate to petitions for probate, letters of administration and succession certificate, the proposition of law expounded therein would be equally, if not more, relevant to an application for heirship certificate. Such an application is also to “seek the Courts imprimatur for recognition as an heir”. Therefore, the right to apply for heirship certificate is also a continuous right which is capable of being exercised as long as object of the right as an heir exists. The right to apply for heirship can, therefore, be exercised at any time after the death of the deceased as long as the right to do so exists. In the circumstances, the trial Court was not correct in its finding that the application filed by the petitioner was barred by limitation.

12. For the above reasons, the petition is allowed in terms of prayer clauses (a) and (b). The matter is remanded to the trial Court for issuance of heirship certificate.”

9. In view of the aforesaid decision, the delay in the present petition is condoned.

10. In view of the material placed on record, the Petition is accepted and proclamation is dispensed with and the petition is allowed in terms of prayer clause (a) which reads thus:

“(a) That this Hon'ble Court be pleased to issue the Legal Heirship Certificate in the Form of Appendix B' of the Bombay Regulation Act

VIII of 1827 recognizing the Petitioners as the lawful heirs of the Deceased Mr.Manoharlal Sewaram Narang alias Manu Narang, who died on 27" April 2001, in respect of the said premises i.e., being 16-A, 2nd Floor, Sundar Nagar Market, New Delhi - 110 003”

11. Petition is disposed of in terms of the above order with no order as to costs.

(AARTI SATHE, J.)