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

MISC. PETITION NO. 715 OF 2026

Mandar Vasant Shrotri ...Petitioner

Vasant Janardan Shrotri ...Deceased

Mr. Mohit Sampat a/w Glojer D'souza i/b. Neeta Sampat for Petitioner.

CORAM: AARTI SATHE, J.

DATE: 15 JUNE 2026

P.C.

1. Heard Mr. Mohit Sampat, learned Counsel on behalf of 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 Petitioner, and expired on 18th January 2014. A copy of his death certificate is annexed to the petition at Exhibit-A. It is stated that at the time of his demise, the deceased was residing at Flat No. 501, Shree Tower, Opposite Sai Lee Hospital, Link Road, Borivali (West), Mumbai - 400091. It is also stated that the deceased died intestate, without leaving behind any testamentary writing or Will.
4. In para 4 of the petition, the Petitioner has given details of the surviving legal heirs of the deceased. It is submitted that after the death of the deceased, the

wife of the deceased Mrs. Vaidehi Vasant Shrotri died on 16th January 2020. The death certificate of Mrs. Vaidehi Vasant Shrotri has been annexed to the petition at Exhibit-E. It is also submitted that the parents of the deceased have predeceased him.

5. It is submitted that the Petitioner, being the son of the deceased, along with the wife of the Deceased Mrs. Vaidehi Vasant Shrotri, inherited the equal shares of the property of the deceased according to Hindu Succession Act 1956 (hereinafter referred to as the “Act”).

6. In view of Section 14 of the Act, the said Mrs. Vaidehi Vasant Shrotri become the full owner of the property inherited by her and not a limited owner. Considering that the Petitioner, being the only surviving legal heir and being the next kin of the deceased, it is submitted that there is no necessity of proclamation/citation/notice which needs to be made. The property and assets which the deceased held as joint owner have been annexed as Schedule-I to the petition.

7. It is stated that the legal heirship certificate is required to be produced before the concerned authorities and/or society to complete the legal formalities, so as to enter the name of the Petitioner as the legal heir of the deceased and to transfer and record the proportionate share, right, title and interest of the Petitioner in the property and credits in the name of the Petitioner. The Petitioner submits that there has been a delay in filing the present petition. However, in view of the

judgment in this Court in **Ganpati Vinayak Achwal**,¹ the delay is condoned.

8. As far as prayer for condonation of delay is concerned, learned counsel for the Petitioner has placed reliance on the decision of this Court in **Ganpati Vinayak Achwal**², and stated that since the cause of action is continuous, delay should be condoned. This Court in Ganpati Vinayak Achwal (supra) has 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.

9. A similar view was taken by this Court in **Vasudev Daulataram Sadarangani Vs. Sajni Prem Lalwani**³, and by the Madras High Court in **S. Krishnaswami, E. Devarajan v. E. Ramiah**⁴. In Vasudev Daulataram (supra), this Court held that 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

1 2014 SCC OnLine Bom 1193

2 (2014) 6-Mh.L.J. 683

3 1984 (1) BCR 211

4 AIR 1991 Mad. 214

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 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.”

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

10. It is stated that no other petition for heirship certificate, succession certificate, probate or letter of administrations with or without Will have been filed. There is, therefore, no impediment to the grant of the relief.

11. In view of the material placed on record, the petition is allowed in terms of prayer clause (a) and (b), which read thus:-

“a) That a Legal Heirship Certificate be issued under section 2 of the Bombay Regulation VIII of 1827 to the Petitioner, thereby certifying that the said Mandar Vasant Shrotri, son of the said deceased and the Petitioner herein, is the only surviving legal heir and next-of-kin of the said deceased as per the provisions of the Hindu Succession Act, 1956;

b) To establish and record the Petitioner's $\frac{1}{2}$ (one-half undivided share, right, title and interest inherited from the said deceased in the property and credits described in Schedule - I annexed to this Petition, and to produce the said Legal Heirship Certificate before the Competent Authorities and/or the Society for effecting the transfer of the said property and credits in the name of the Petitioner;”

12. Petition is disposed of in terms of the above order, with nor order as to costs.

(AARTI SATHE, J.)