

MHNS020047952022



CIVIL M.A.NO.753/2022

ORDER BELOW EXH.1

1. This case is filed under section 372 of Indian Succession Act, 1925 for succession certificate.

GROUND OF APPLICATION :-

2. Mr.Bhagwandas Ranjhomal Amar died on 20.10.2007 at Mumbai. His wife Jyoti died on 27.04.1977 at Mumbai. Applicants are Class I legal heirs of deceased Bhagwandas. Bhagwandas was residing at Nashik at the time of his death along with applicants within the jurisdiction of this court. Father of applicants namely Mr.Bhagwandas Ranjhomal Amar purchased 92 shares and debentures of various companies mentioned in paragraph no.3 of application at Exh.1. Applicants are real and only class I heirs of deceased Mr.Bhagwandas Ranjhomal Amar. There is no impediment to grant certificate under section 370 of Indian Succession Act, 1925. Bhagwandas not executed any will. Applicants father's name is Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal. These different names are shown on some of the share certificates but the person is same. Applicant nos. 2 and 3 have no objection to issue succession certificate in the name of

applicant no.1. Applicants were residing within jurisdiction of this court. Hence filed this application for issuing succession certificate in the name of applicant no.1 authorising him to get share certificates unclaimed dividend transferred.

3. Though public notice at Exh.12 issued in daily newspaper "Deshdoot" on 11.11.2022, nobody appeared and file objection. Hence case proceeded further.

**ORAL AND DOCUMENTARY EVIDENCE ON
BEHALF OF APPLICANTS :-**

4. Applicant no.1 filed his evidence by way of affidavit at Exh.13 and closed evidence by filing pursis at Exh.14. Applicants relied upon following documents,

- i) Verified copies of share certificates at Exhs. 15 to 30,
- ii) Death certificates of Bhagwandas and Jyoti at Exhs.31 and 37,
- iii) Verified copies of Aadhar Cards of applicants Exhs. 32 to 34.

ARGUMENT ON BEHALF OF APPLICANTS :-

5. Learned advocate for applicants submits that father of applicants died at Mumbai, but applicant no.1 is temporary residing at Nashik, hence this court has jurisdiction to try this case. Different share certificates at Exhs. 15 to 30 are in the name of father of applicants. Applicant nos.1 and 3 are son of Bhagwandas. Applicant no.1 is 68 years old. Applicant no.2 is

daughter of Bhagwandas. Applicant no.2 is handicap. Applicant 3 is residing at Mumbai. Applicant no. 1 is not having any property. Applicants are the only legal heirs of deceased Mr.Bhagwandas Ranjhomal Amar. This court has jurisdiction to grant succession certificate. Applicants proved the case as nobody appeared and taken objection, though public notice at Exh.12 issued in local news paper. Hence he submits that application may be allowed.

REASONS

6. As per death certificate at Exh.31, Mr.Bhagwandas R. Amar died on 20.10.2007 at Mumbai and his father's name is mentioned at Mr.Ranjomal Amar. In death certificate at Exh.31 name of deceased is mentioned as Mr.Bhagwandas R. Amar. As per application at Exh.1 paragraph no.1, name of father of applicants mentioned as Mr.Bhagwandas **Ranjhomal** Amar who died on 20.10.2007. In public notice at Exh.12, name of father of applicants mentioned as Mr.Bhagwandas Ranjhomal Amar. So as per contents of application at Exh.1 paragraph no.1 and public notice at Exh.12, name of father of applicants is Mr.Bhagwandas Ranjhomal Amar. Whereas as per death certificate at Exh.31. Mr.Bhagwandas R. Amar died and name of his father mentioned as Mr.**Ranjomal**. In death certificate at Exh.31, name of deceased is mentioned as Bhagwandas R. Amar but full name of deceased Bhagwandas is not mentioned, but in other column, name of his father is mentioned as Mr.**Ranjomal** Amar. So as

per death certificate at Exh.31, Mr.Bhagwandas **Ranjomal** Amar died at Mumbai on 20.10.2007, whereas as per application at Exh.1 name of applicants father is Bhagwandas Ranjhomal Amar who died on 20.10.2007. There is nothing on record to show that the person namely Bhagwandas Ranjhomal Amar died on 20.10.2007 because death certificate in said name is not filed on record. The death certificate at Exh.31 is not of Bhagwandas Ranjhomal Amar but it is in the name of Bhagwandas R. Amar and father's name is mentioned as **Ranjomal**. So the death certificate at Exh.31 is not said to be death certificate of the person namely Bhagwandas **Ranjhomal** Amar.

7. Even otherwise for sake of argument if it is presumed that death certificate at Exh.31 is in the name of Bhagwandas Ranjhomal Amar as mentioned in paragraph no.1 of application at Exh.1, then in that circumstances also the said death certificate is not helpful to the applicants to get succession certificate in the name of applicant no.1 for transferring the share certificates at Exhs. 15 to 30 because some share certificates at Exhs. 15 to 30 are in the name of Bhagwandas Ranjhomal Amar, some are in the name of Bhagwan Ranjhomal Amar, some are in the name of Bhagwan Ranjihomal Amar. There is no notification or any other documentary evidence on record to show that Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal are one and the same persons who

was father of applicants. In such circumstances, only the mere statement of applicant no.1 is not believable that above referred Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal are one and the same persons who is the father of applicants. In this way, in absence of any other corroborative evidence or notification or any other documentary evidence on record that Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal are one and the same persons, the mere statement of applicant no.1 is not believable specially when death certificate at Exh.31 is in the name of only Mr.Bhagwandas R. Amar but as per application at Exh.1 Mr.Bhagwandas Ranjhomal Amar died. The death certificate of the person who is alleged to have died as per paragraph no.1 of application at Exh.1 is not filed on record. So application deserves to be rejected.

8. Even otherwise for sake of argument, if it is presumed that Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal are one and the same persons and he is father of applicants, then in that circumstances also, applicant no.1 is entitled to get succession certificate because as per contents of application at Exh.1 paragraph no.1 and death certificate at Exh.31, father of applicants died at Mumbai, all the share certificates at Exhs. 15 to 30 are issued at Mumbai and said

certificates are issued within the jurisdiction of Bombay, none of the share certificates are issued at Nashik or the said certificates at Exhs. 15 to 30 are not from any company at Nashik, hence this court has no jurisdiction to issue succession certificate. In this way, for sake of argument if the case of applicants accepted as it is that Bhagwandas Ranjhomal Amar, Bhagwan Ranjhomal Amar, Amar Bhagwandas Ranjhomal Amar and Amar Bhagwan Ranjhomal are one and the same persons and he is father of applicants, but he died at Mumbai, all the share certificates at Exhs.15 to 30 are of various companies at Bombay or Mumbai, said share certificates at Exhs. 15 to 30 issued at Mumbai, so this court has no jurisdiction to issue succession certificate as all the share certificates are not from the Nashik jurisdiction and deceased Bhagwandas died at Mumbai.

9. Applicant nos. 2 and 3 neither appeared before court nor filed evidence by way of affidavits or pursis stating that they have no objection for issuing succession in the name of applicant no.1.

10. As per verified copies of Aadhar Cards of applicant nos. 2 and 3 at Exhs.33 and 34, they are permanent residence of Mumbai but not of Nashik. As per verified copy of Aadhar card of applicant no.1 at Exh.32, his address is shown as Nashik. Learned advocate for applicants orally submits that applicant no.1 is not having immovable property at Nashik and he is not permanent resident of Nashik, but he is residing at Nashik

temporary. So as per submission of learned advocate for applicants, applicant no.1 is temporary residing at Nashik. It means in this case, as per verified copies of Aadhar cards of applicant nos. 2 and 3 at Exhs. 33 and 34, permanent addresses of applicant nos. 2 and 3 are at Mumbai. Their father died at Mumbai. All the share certificates at Exhs. 15 to 30 issued at Mumbai or Bombay. All the share certificates at Exhs. 15 to 30 are of various companies at Bombay and Mumbai. In such circumstances, just because applicant no.1 is temporary or permanently residing at Nashik, that does not get jurisdiction for issuing succession certificate by this court at Nashik.

11. As per paragraph no.2 of application at Exh.1, “the deceased Mr.Bhagwandas Ranjhomal Amar died on 20.10.2007 at Mumbai. At the time of his death he was residing at Nashik, Tal. and Dist.Nashik with the applicants within the jurisdiction of this Hon'ble Court.” As per above referred paragraph no.2 of application at Exh.1 it is the vague case of applicants that their father was residing at Nashik at the time of his death within the jurisdiction of this court, without any specification from which period, he used to reside at Nashik ? As per death certificate at Exh.31, Mr.Bhagwandas R. Amar died at Mumbai. So the statement of applicants that their father was residing along with them at Mumbai is not believable. Verified copies of Aadhar Cards of applicant nos. 2 and 3 show that applicant nos. 2 and 3 are permanent residence at Mumbai. In such circumstances, the

vague case of applicants that their father was residing along with them at Nashik at the time of his death is not believable because as per verified copies of Aadhar Cards at Exhs. 33 and 34 permanent address of applicant nos. 2 and 3 are at Mumbai but not at Nashik.

12. As per section 371 of Indian Succession Act, 1925, the District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this part. In the present case, as recorded above, as per death certificate at Exh.31, father of applicants died at Mumbai, all the share certificates at Exhs.15 to 30 are issued at Mumbai and all the said share certificates are of various companies at Mumbai or Bombay. In this way, as father of applicants died at Mumbai and all the share certificates at Exhs. 15 to 30 are of various companies at Mumbai or Bombay, so as per section 371 of Indian Succession Act, 1925, this court has no jurisdiction to grant succession certificate.

13. In this way, for all the reasons recorded above, application is rejected.

Date: 27.01.2023.

(Pratibha A. Patil)
8th Jt.Civil Judge Sr.Division
Nashik

