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**IN THE COURT OF PRINCIPAL CIVIL JUDGE,
AT CHANASMA - PATAN.**

CIVIL MISC. APPLICATION NO. 01 OF 2019

Exh.20.

Applicant :-

- (1) **Jayeshkumar Parsotambhai Panchal,**
Age: 43 yrs, Occupation: Business,
Residing at-Ugam No Darvajo,
Luhar Ni Khadki,
At Chanasma-384220 (North Gujarat).

Appearance- Mr. Bharat.B.Velani, the Ld. Adv. for the Applicant.

APPLICATION UNDER INDIAN SUCCESSION ACT, FOR ISSUING SUCCESSION CERTIFICATE IN RESPECT OF CERTAIN SHARES BELONGING TO THE DECEASED PARSOTAMBHAI CHATURBHAI.

:: J U D G M E N T ::

1. The applicant has filed the present application under Indian the Succession Act for obtaining succession certificate in his favour in respect of the shares of BERGER PAINTS INDIA LTD. standing in the name of deceased Parsotambhai Including Bonus, right and dividend for the value of Rs.2,63,760/- (Rupees Two Lakh Sixty Three thousand Seven hundred Sixty only). The short facts involved in the present application may briefly be summarized as under :-

- 1.1** That the above named Parsotambhai Chaturbhai was ordinary resident of Chanasma and died at Chanasma on 27/09/2009.
- 1.2** That the said deceased person Parsotambhai had left 600 shares of BERGER PAINTS INDIA LTD. Now the holding of share became 840. Details of shares is truly set forth in the schedule with this application, which is as under-

Name of Company	BERGER PAINTS INDIA LTD
No. of Shares	600
Register Folio No.	C02353
Certificate No.	00379734
Distinctive Nos.	406760079 to 406760678

- 1.3** That the said deceased died intestate and that due and diligent search has been made for a will but none has been found.
- 1.4** That the said deceased left his surviving the following persons as his only heirs and next of kin according to Hindu Succession Act, 1956-
- | | |
|--|----------|
| (1). Jayeshkumar Parsotambhai Panchal- | Son |
| (2). Pankajkumar Parsotambhai Panchal- | Son |
| (3). Induben Arvindkumar Panchal- | Daughter |

- 1.5** That the father and mother of the deceased are predeceased the deceased. Said deceased Parsotambhai had two sons and one daughter save and except mentioned above, there are no other legal heirs left by the deceased. From the above stated heirs Pankajkumar and Induben have waived their rights regarding the shares of BERGER PAINTS INDIA LTD in favour of applicant.
- 1.6** That the applicant as a son of the deceased person Parsotambhai claims to be entitled to entire shares of the BERGER PAINTS INDIA LTD.
- 1.7** That there is no impediment under section-370 of the Indian Succession Act, 1925 or under any other provision of this Act or any other enactment to the grant of the certificate or the validity thereof if it were granted.
- 1.8** That the Succession Certificate is required for the purpose of collecting shares of BERGER PAINTS INDIA LTD standing in the name of deceased Parsotambhai including Bonus, rights and dividend thereon declared after the date 27/09/2009. The said movable assets in respect of which the succession certificate is required are of the value of Rs. 2,63,760/- (Rupees Two Lakh Sixty Three thousand Seven hundred Sixty only) as on the date of the application.
- 1.9** That no application has been made to any District Court or District Delegate or to any High Court for probate of any will of the said deceased or for letter of Administration with or without the will annexed to his property and credits.
- 1.10** That no application has been made to any District Court or District Delegate or to any High Court for succession certificate in respect of any security belonging to the estate of the deceased.
- 1.11** That the deceased person said Parsotambhai died on 27/09/2009 and applicant came to know about shares of BERGER PAINTS INDIA LTD on 09/01/2015 by Company,s letter so applicant have started communication with Company to get shares certificate duly transferred in his name but by last letter dated 15/05/2018 applicant was informed by the Company that value of the shares exceed Rs. 2 lakh, therefore applicant has to get succession certificate. Therefore cause of action arise on 15/05/2018 to file this application and this

application is filed before the Hon'ble Court on date 28/01/2019, therefore this application is in time limitation.

- 1.12** The applicant therefore prayed to issue succession certificate in his favour in respect of the shares of BERGER PAINTS INDIA LTD including Bonus, rights and dividend which is set forth in the schedule with power to collect the said shares duly transferred in his name and to receive pending bonus, dividend thereon.
- 2.** At the time of filing of present application, an order was passed on 28/01/2019 to publish a public notice. The notice was published in the daily newspaper "Sandesh" on 10/03/2019 with regard to invite objections, if any, from the public at large against the present application for obtaining succession certificate. Original copy of the said news paper dated 10/03/2019 is produced by the applicants at Exh.11.
- 3.** On perusal of the record, it appears that despite the public notice, none appeared before the court and none have raised any objections against the present application.
- 4.** In support of the present application, the applicant has led following oral as well as documentary evidences-

Oral Evidences

A.W.	Name of witness	Exhibit
1.	Jayeshkumar Parsotambhai Panchal	10
2.	Pankajkumar Parsotambhai Panchal	15
3.	Induben Arvindbhai Panchal	17

Documentary Evidences

S/N	Particulars	Exhibit
1.	Publication of Public Notice published in Sandesh Newspaper.	11
2.	Affidavit of Applicant Jayeshkumar Parsotambhai Panchal	12
3.	Death Certificate of Deceased Parsotambhai Chaturbhai Panchal.	13

4.	Copy of Share Certificate.	14
5.	Affidavit of Pankajkumar Parsotambhai Panchal	16
6.	Affidavit of Induben Arvindbhai Panchal	18

5. It is needless to state that the contents of the above mentioned evidences have gone unchallenged and remained uncontroverted. Thereafter, the learned advocate for the applicant has filed the closing pursish at Exh.19 and accordingly, the right of the evidence of the applicant was ordered to be closed.
6. After filing of closing purish, heard the arguments of Ld.Advocate Mr.Bharat.B.Velani for the Applicant. He has submitted that the applicant has filed the present application for obtaining succession certification in his favour in respect of the shares of BERGER PAINTS INDIA LTD including Bonus, rights and dividend which is set forth in the schedule with power to collect the said shares duly transferred in his name and to receive pending bonus, dividend thereon mentioned in the shedule filed along with Exh.1. He further submitted that deceased Parsotambhai had two sons and one daughter save and except mentioned above, there are no other legal heirs left by the deceased. From the above stated heirs Pankajkumar and Induben have waived their rights regarding the shares of BERGER PAINTS INDIA LTD in favour of applicant. Therefore, applicant being son of the deceased person Parsotambhai is entitled to entire shares of the BERGER PAINTS INDIA LTD. Further no one has raised any objection against the present application, thus the applicant has proved that he entitled for succession certificate and, accordingly, he has prayed to allow the present application.
7. Based on the pleadings, arguments and documents on record, following points had arisen for determination of the application-

Points For Dtermination

1. Whether the Applicant is entitled to get Succession certificate as prayed for?

2. What's Order?

8. The findings on above points are as follow:-

(1). In affirmative.

(2). As per final order.

Reasons

Point No.1 & 2:-

9. In order to prove the application, the applicant- Jayeshkumar Parsotambhai Panchal has deposed at Exh.10 that the deceased Parsotambhai Chaturbhai Pachal was his father, who had expired in the year of 2009. The shares mentioned in application are of Berger Paint Company and are in the name of his deceased father, who used to live with him at his house. Those shares were originally 600 in number and at present those shares are 840 in number.

Thereafter, the other son named Pankajkumar and daughter Induben of deceased Parsotambhai have deposed in similar line as that of applicant vide Exh.15 and Exh.17 and have stated that they have no objections if succession certificate is issued in the name of applicant regarding the shares.

10. The public notice is at Exh.-11, but in pursuant to the said notice, none had appeared. The death certificate of Parsotambhai chaturbhai Panchal is at Exh.-13. Thus, the evidence clearly established that the deceased Parsotambhai chaturbhai Panchal is expired and the Applicant and others are the legal heirs. The other legal heirs have already deposed and have filed the affidavits stating that they have no objection if the Succession Certificate is being issued in favour of the Applicant. The copy of

Share Certificate is at Exh.-14, which stood in the name of Parsotambhai chaturbhai Panchal.

- 11.** In light of such facts, there is no reason to disbelieve the facts stated by the Applicant on oath at Exh.-10. In view of the evidence on record, the Applicant is entitled to get Succession Certificate as prayed for and hence, the present application deserves to be allowed and, accordingly, I answer the point no.1 in Affirmative and in pursuance to point no.2, I hereby pass the following final order-

:: FINAL ORDER ::

1. The application for succession certificate filed by the applicant is hereby allowed.
2. On furnishing stamp of the requisite fees as per Section 379 of Indian Succession Act, 1925, the succession certificate be issued in favour of the Applicant. The Succession Certificate as prayed for the share described in Schedule of property be issued in the form prescribed in Schedule VII of Succession Certificate Act, 1925.
3. The applicant is directed to submit the statement showing the exact figure of value of shares as on date and pay the requisite Court Fees on the said amount so declared within seven days.
4. The copy of the said succession certificate shall be kept in the records of this case.
5. No order as to costs.

Order declared and pronounced in open court on this day of 8th day of November 2019.

(ARJUN SINGH)

Date: -08/11/2019

Principal Civil Judge, Chanasma

Place: -Chanasma- Patan

Code No. - GJ01363