



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

**TESTAMENTARY PETITION NO.807 of 2020**

Pawan Jain ...Petitioner  
vs.  
Sejal Anurag Jain ...Deceased

Mr. Neeraj Patil, for the Petitioner  
Mr. Anuj Desai, Amicus Curiae.

**CORAM :** N. J. JAMADAR, J.  
**RESERVED ON :** JUNE 18, 2024  
**PRONOUNCED ON :** JULY 02, 2024

**ORDER**

1. Heard the learned counsel for the parties.
2. A question of general importance as to whether a person who has caused dowry death within the meaning of section 304-B of the Indian Penal Code, 1860 (Penal Code) incurs disqualification to inherit the property of woman, who met the dowry death, under section 25 of the Hindu Succussion Act, 1956, arises for consideration in this petition.
3. The background facts in which the aforesaid question crops up for consideration can be stated in brief as under:-
  - 3a. Ms. Sejal Anurag Jain, the deceased, was the daughter of the petitioner. Marriage of the deceased was solemnized

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with Anurag Jain, on 6<sup>th</sup> May, 2013. The deceased passed away on 6<sup>th</sup> February, 2014 at Noida, Uttar Pradesh. The cause of death was excess bleeding and multiple injuries, as noted during the course of postmortem examination.

3b. The petitioner preferred a petition for grant of a succession certificate in respect of certain debts and securities belonging to the deceased. In paragraph 4 of the petition, the petitioner furnished the particulars of the heirs and next-of-kin left behind by the deceased including Anurag Jain, the husband, Swatantrakumar Jain, father in law, and Kamla Jain, mother in law, (Serial Nos. 1 to 3).

3c. The petitioner averred the abovenamed heirs mentioned at serial Nos. 1 to 3 in the table i.e. husband, father in law and mother in law of the deceased, were disqualified to inherit the property of the deceased as they have been convicted for the offences punishable under sections 304-B, 498-A of the Penal Code and sections 3 and 4 of the Dowry Prohibition Act, 1961 by a judgment and order dated 31<sup>st</sup> July, 2019 passed by the Court of Session at Gautam Buddha Nagar, Noida, Uttar Pradesh. Thus, the husband and in-laws of the deceased being directly responsible for the death of the deceased were barred from inheriting the property of the deceased.

3d. As the mother of the deceased, Kiran Jain mentioned at Serial No. 5 in the table, expired during the pendency of this petition, the petitioner being the father, is the only surviving legal heir of the deceased.

4. On 14<sup>th</sup> June, 2023, the officer on special duty, Testamentary Department raised an objection to the tenability of the petition at the instance of the petitioner/ father of the deceased questioning his capacity as the husband of the deceased was alive and, in the opinion of the testamentary department, the person convicted for an offence punishable under section 304-B of the Penal Code, cannot be equated with a murderer, who is disqualified under section 25 of the Hindu Succession Act, 1956.

5. To appreciate the controversy in a correct perspective, it may be apposite to extract the observations in paragraphs 4 and 5 of the order dated 14<sup>th</sup> June, 2023 which articulate the reasons which weighed with the Department. They read as under:-

4] Hence, in a present petition, upon perusal of the copy of the judgment, produced at Exhibit-B, it appears that the husband of the deceased and his relatives were held guilty for above referred offences under Section 304-B of the Penal Code is in respect of the conduct of the persons and held them liable for such death defined in the said section. However, section 299 of the Penal Code provides definition of murder. As per the said provision, direct act of the person is required to cause bodily injury which

resulted into a death of said person. Even sec. 107 of the Penal Code and other sections denotes that there must be a criminal agreement between the persons to commit a wrong, that is murder of the person. However, section 304-B of IPC, does not have effect of the definition of the “murder” but it relates to the dowry death. Hence, at this juncture, I cannot travel beyond the definition given in the statute.

5] Submission of the learned advocate for the petitioner is that husband of the deceased, who is responsible for the death of the deceased. No doubt, submission is not groundless. However, such interpretation of the statute cannot be done by this office. It is a jurisdiction of the Court to interpret the statute. Hence, in present petition, unless fact accepted that husband of the deceased disqualified under Section 25 of the Hindu Succession Act, 1956, capacity of the petitioner to present petition comes in question. Hence, question regarding the capacity of the petitioner arises. Therefore, petitioner is called upon to establish capacity first, before proceed ahead with the petition.

6. When the petitioner moved this Court, questioning the correctness of aforesaid requisition, by an order dated 25<sup>th</sup> July, 2023, this Court considered it appropriate to appoint Mr. Anuj Desai, learned Amicus Curiae, to assist the Court in deciding the legal issue, noted above.

7. I have heard Mr. Neeraj Patil, learned counsel for the petitioner, and Mr. Anuj Desai, learned Amicus Curiae at some length. With the assistance of the learned counsel, I have perused the material on record including the judgment passed by the learned Additional Session Judge, Gautam Buddha Nagar, Noida,

Uttar Pradesh convicting the husband and in-laws of the deceased for the offences punishable under sections 304-B and 498-A of the Penal Code and sections 3 and 4 of the Dowry Prohibition Act, 1961.

8. Evidently, there is not much controversy on facts. The capacity of the petitioner/ father of the deceased is questioned on the premise that since the husband of the deceased is alive and has been convicted under section 304-B and 498-A of the Penal Code and not found guilty of the murder of the deceased, the disqualification under section 25 of the Hindu Succession Act, 1956 is not attracted.

9. Mr. Neeraj Patil, learned counsel for the petitioner submitted that the Department's aforesaid view is erroneous. The particular section of the Penal Code under which an heir of the deceased is convicted is not material. The question that ought to be posed by the Court is, whether the heir, who is alleged to be disqualified, has caused the death of the deceased or abetted the causing of the death of the deceased.

10. Mr. Anuj Desai, learned Amicus Curiae, submitted that the Department has taken a very technical and constricted view of the

matter. It is not the requirement of law that the person who has allegedly incurred the disqualification, must be convicted for an offence punishable under section 302 of the Penal Code. The definition of “murder” under section 299 of the Penal Code can not be imported while appreciating the question of disqualification on the said count. Mr. Desai strenuously submitted that the disqualification, even before the introduction of section 25 of the Hindu Succession Act, 1956, was based on the principles of justice, equity and good conscience. The underlying principle was that a person should not benefit from his own wrong.

11. Viewed through this prism, according to Mr. Desai, learned Amicus Curiae, the fact that the heir who is alleged to be disqualified has not been convicted for the offence punishable under section 302 of the Penal Code, and has been convicted for a lesser offence, or for that matter, has not at all been convicted of the offence, is not of decisive significance. The term, “murderer” has to be interpreted in the light of the object of incorporating the disqualification for a murderer under Hindu Succession Act, 1956.

12. Mr. Desai submitted that the controversy is no longer *Res Integra* and the position in law has been settled by a long line of

decisions. Mr. Desai invited the attention of the Court to a decision of Andhra Pradesh High Court in the case of **Nannepuneni Seetharamaiah and Ors. vs. Nannepuneni Ramakrishnaiah**<sup>1</sup>; a decision of learned single judge of this Court, in the case of **Minoti vs. Sushil Mohansingh Malik and Anr.**<sup>2</sup>; a decision of Karnataka High Court, in the case of **G.S. Sadashiva and Anr. vs. M.C. Srinivasan and Ors.**<sup>3</sup>. Reliance was also place on the decision of the Supreme Court in the case of **Vellikannu vs. R. Singaperumal and Anr.**<sup>4</sup>.

13. In the case of **Nannepuneni Seetharamaiah** (supra), a learned single judge of Andhra Pradesh High Court in the backdrop of the accusation that the plaintiff therein had committed murder of his father and parental uncle enunciated that, the fact that the plaintiff therein was convicted for the offence punishable under section 326 read with 34 of the Penal Code while acquitting him of the charge for the offence punishable under section 302 read with 34 of the Penal Code, did not make any significant difference in the matter of disqualification. The observations in paragraphs 13, 14 and 16 are material and hence extracted below:

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1 AIR 1970 AP 407.

2 AIR 1982 Bom 68.

3 ILR 2001 KAR 4574.

4 (2005) 6 Supreme Court Cases 622.

13] It is in that view that the plaintiff, who was the 1st accused in that case, was convicted along with another (A-3) under Section 324 read with Section 34, I. p. c. Basing on these findings, it is contended by Mr. Madhavarao for the plaintiff that as the plaintiff was not convicted for the murder of his father, the disqualification prescribed by Section 25 and 27 of the Hindu Succession Act cannot be made applicable to him. In this connection, it may be pertinent to notice that Section 25 only says that a person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, but not that a person must be convicted of murder or of abetment of murder, to be disqualified from inheriting the property of the person murdered. The principal charge, against the plaintiff and three of his associates, was that all of them, in furtherance of the common intention of all, attacked the two deceased and inflicted injuries which proved fatal. The learned Judges held that murder was clearly committed within the meaning of Section 300, I. P. C. having regard to the injuries found by the Medical Officer who conducted the autopsies on the two deceased persons. If the learned Judges did not convict the plaintiff and another under Section 302 read with Section 34, I. P. C. it was for the reason that he was given the benefit of doubt arising from the difference between the evidence of P. Ws. 1 and 2 and that of P. Ws. 3 and 4 as to what he intended initially when the attack was launched on his father and another. It is for that reason that this Court held that the plaintiff and another only intended causing hurt to the deceased and their men and that the other two accused, by reason of their overt acts, rendered themselves liable to punishment under Section 302, I. P. C.

14] In order to apply the disqualification under Section 25 of the Hindu Succession Act, it is not necessary in my opinion that a person who committed the murder or abetted the commission of murder must also have been convicted of the offence of murder or of abetment of murder under Section 302, Indian Penal Code. That the plaintiff had participated in the murderous attack on his father along with A-2 and A-4 in that case, who were convicted of murder, is not in dispute. It is because of the nature of injuries inflicted by him on his father and the variations found in the version of the direct



witnesses that this court found it safe to convict him under Section 324, I. p. C. Section 25 of the Hindu Succession Act does not contemplate punishment for murder not display the murderer from inheriting the property of the murdered. the application of this provision ought not to be approached from the point of view of punishment for murder. This court has held that murder was clearly committed within the meaning of Section 300 I. P. C. The fact that he was given the benefit o doubt arising out of the conflicting versions of two witnesses and convicted under Section 324, I.P. C. does not in any way absolve him from the heinous crime to which he had made his own infamy contribution. Section 25 is introduced in the Hindu Succession act as a matter of high public policy based on principles of justice, equity and good conscience to make it absolutely impossible for a murderer who deserves to be handed or to be shut behind the prison bars for life, to derive advantage or beneficial interest from the very heinous act committed by him.

... ..

16] The Privy Council, in [Kenchava v. Girimallappa Channappa](#), 51 Ind App 368 = (AIR 1924 PC 209) also held that even if the Hindu Law did not disqualify the murderer form succeeding to the estate he was so disqualified upon the principles of justice, equity and good conscience, Statutory effect has been given to the aforesaid view by introducing the two Ss. 25 and 27 in the Hindu Succession Act on grounds of public policy and principles of justice and morality. Therefore, the disqualification's prescribed by Section 25 and 27 come into play and operate against the plaintiff inheriting or deriving any beneficial interest in the property possessed or held by this father. I therefore find no merits in the cross-objections and accordingly dismiss them. In the result, judgment and preliminary decree passed by Court below are set aside & appeal allowed and suit dismissed, with costs.

14. In the case of **Minoti** (supra), a learned single judge of this Court was confronted with the question as to whether the husband (defendant No. 1 therein) who was convicted for an offence punishable under section 304 Part-I of the Penal Code for having

committed the death of his wife, was not disqualified under section 25 of the Hindu Succession Act, 1956. Answering the question in the negative, this Court held that, in the facts of the said case, it could be safely inferred that defendant therein had committed murder of his wife within the meaning of said expression as used in section 25 of the Hindu Succession Act, 1956 and therefore disqualified from inheriting the property of the deceased. In the said case, it was, inter alia, observed that the definition of murder under section 299 of the Penal Code was not required to be imported to construe the expression 'murderer' under section 25 of the Hindu Succession Act, 1956. The observations in paragraphs 7 to 11 are material and hence extracted below:-

7] It is an admitted position that the word "murder" is not defined in the Hindu succession Act, It appears that S. 25 was introduced in the Hindu succession Act practically to give statutory sanction to the view expressed by the privy council in *kanchawa v. Girimallappa*, AIR 1924 PC. 209 while dealing with such a contention the privy Council; observed that there is much to be said in support of the principles of jurisprudence which can be traced in Hindu Law, which would warrant in inference that a man cannot take advantage of his own wrong. The privy council further observed that this principle is the principle of equity, justice and good conscience, which disqualifies and excludes the murderer from inheriting any interest in the property of the person murdered. The privy council also held that the murderer in such case should be treated as non-existent and not as one who forms the stock for fresh line of descent. Thus, it appears that S.s 25 and 27 were enacted by the legislature to give statutory approval to the principles of equity, justice and good conscience which disqualifies murder from inheriting the property of

the person murdered . Therefore, the words and phrases used in S. 25 will have to be construed in the light of these principles viz. The principles of equity, justice and good conscience. This is also the well established principle of public policy.

8] As observed by the privy council in Lawrence Arthus Adamson v. Melbourne and Metropolitan Board of Works, AIR 1929 PC 181 :

"It is always unsatisfactory and generally unsafe to seek the meaning of words used in an Act in the definition clauses of another statute dealing with matters more or less cognate even when enacted by the same legislature."

The supreme court has also expressed the similar view in the Board of Muslim Wakfs, Rajasthan v. Radha Krishan, and has observed that (at p. 295):

"It is not a sound principle of construction to interpret expressions used in one Act with reference to their use in another Act and decisions rendered with reference to construction of one Act cannot apply with reference to the provisions of another Act, unless the two Acts are in pari materia."

It is an admitted position that two enactments are neither cognate nor pari materia and cover different fields . Therefore, in my opinion words and phrases used in S. 25 of the Hindu succession Act will have to be construed and interpreted harmoniously keeping in view the object of the legislation, and not in technical sense as defined in I.P.C.

9] In this context a reference could also be made to the following observation in Halsburry's Laws of England, Third Edition, vol.39 para. 1315, p.869:-

"Murder or manslaughter. It is contrary to public policy that a man should be allowed to claim a benefit resulting from his own crime. Accordingly a donee who is proved to be guilty of the murder or manslaughter of the testator cannot take any benefit under his will."

It is this principle of public policy that a person cannot be allowed to claim benefit resulting from his own crime which is approved by the privy council in Kanchava's case AIR 1924 PC 209. When the Hindu succession Act, 1956 was enacted, the legislature had before it the decision of the privy council in Kanchava's case and it appears that it is this well established principle of public policy which legislature thought fit to incorporate in S.25 of the Act , so that

the person will not be tempted to commit murder to inherit the property of the person murdered.

10] It is well settled that the word not defined in the Act but a word of every day use must be construed in popular sense as understood in common parlance . and not in a technical sense. In popular sense the word "murder " means unlawful homicide or unlawful killing of human being. In popular parlance the word "murder" is not used or understood in the technical sense as defined in S. 300 of the I.P.C. will result in defeating the very object of the legislation. It will also run counter to the well established principles of equity, justice and good conscience, or the paramount principle of public policy enshrined in S. 25 of Hindu succession Act. I am fortified in this view by t he decision of the Madras High Court in Sarvanabhava v. Sallemmal the Madras High court has observed as under :

" Almost all systems of law have recognised that a person guilty of homicide cannot succeed to the property of his victim. Section 25 of the Hindu succession Act gives statutory recognition to the above proposition."

11] In the present case defendant No.1 is convicted of the offence punishable under S. 304 part of I.P.C. viz. For the offence of culpable homicide. From the findings recorded by the learned sessions Judge it is clear that as many as eleven incised injuries were inflicted by defendant No.1 with a sharp edged knife on the person of deceased Revathi. He chose vital part of the body for inflicting these injuries and had used considerable force. He assaulted Revathi with the intention of causing her death. Therefore it can safely be held that he has committed murder of Revathi within the meaning of the said expression as used in S. 25 of the Hindu succession Act, 1956 and therefore is disqualified from inheriting the property of deceased Revathi, the person murdered. Similar view is taken by Andhra Pradesh High court in Nannepuneni Seetaramaiah v. Nannepueni Ramakrishnaniah, , wherein it is observed by the Andhra pradesh High court that to apply the disqualification under S.25 of Hindu Succession Act it is not necessary that the person who committed murder or abetted commission of murder must also have been convicted of the offence of murder or of abatement of murder under S. 302 of the

I.P.C. The said section application of the section should not be approached from the point of view of punishment for murder.

15. In the case of **G.S. Sadashiva** (supra), the Karnataka High Court went a step ahead and held that even if the person who is alleged to be disqualified from inheriting the property of the person allegedly murdered by the former, is acquitted by the Criminal Court, where the party alleging the disqualification is able to satisfy the Court that such person was acquitted either on any technical ground or by extending the benefit of doubt and that the deceased was actually murdered by such person or the crime was abetted by such person, he would be disqualified to inherit or succeed to the property of the deceased.

16. In the case of **Vellikannu** (supra), the Supreme Court, inter alia, enunciated that even prior to the amendment of Hindu Succession Act, 1956 by incorporating sections 25 and 27, the murderer of his own father was disqualified on the principle of justice, equity and good conscience and as a measure of public policy. It was further postulated that the effect of sections 25 and 27 of Hindu Succession Act, 1956 was that a murderer was totally disqualified to succeed to the estate of the deceased and that the murderer is not regarded as a stock of fresh line of descent but

should be regarded as non-existent.

17. A useful reference can also be made to a Division Bench judgment of this Court in the case of **Jaya Talakshi Chheda vs. Tanuja Jayantilal Bhagat and Others**<sup>5</sup>, wherein it was enunciated that it is well settled that an issue of person having committed murder or abetted the commission of murder to attract Section 25 of the Act is to be decided independently by a Civil Court and that mere reliance on the finding of the Sessions Court is considered insufficient. The decision of the Sessions Court can only be relevant to show that there was a trial resulting in conviction and sentence.

18. This Court relied upon a judgment of the Supreme Court **Anil Behari Ghosh vs. Smt. Latika Bala Dassi and Ors.**<sup>6</sup>, wherein the following observations were made :-

14] ..... The learned counsel for the contesting respondent suggested that it had not been found by the lower Appellate Court as a fact upon the evidence adduced in this case, that Girish was the nearest agnate of the testator or that Charu had murdered his adoptive father, though these matters had been assumed as facts. The courts below have referred to good and reliable evidence in support of the finding that Girish was the nearest reversioner to the estate of the testator. If the will is a valid and genuine will, there is intestacy in respect of the interest created in favour of Charu, if he was the murderer of the testator. On this question the courts below have assumed on the basis of the judgment

5 (2019) 1 Bom CR 629.

6 1955 SCC OnLine SC 61.

of conviction and sentence passed by the High Court in the sessions trial that Charu was the murderer. Though that judgment is relevant only to show that there was such a trial resulting in the conviction and sentence of Charu to transportation for life, it is not evidence of the fact that Charu was the murderer. That question has to be decided on evidence. ....

(emphasis supplied)

19. The position in law which thus emerges is that, the disqualification incorporated in section 25 of the Hindu Succession Act, 1956, is based on public policy that a person who causes death of the person whose property he seeks to inherit, cannot be permitted to take advantage of his own felonious act. The disqualification of the murderer to inherit the property of the person he murdered, even before statutory recognition, was premised on the principles of justice, equity and good conscience. The avowed object to disqualify such a person was to disallow a person to accelerate his inheritance by causing death of the person whose property he seeks to inherit.

20. Secondly, the expression, “a person who commits the murder or abets the commission of murder,” is required to be so construed as to advance the aforesaid object. The term, “murder” has not been defined in the Hindu Succession Act, 1956. The definition of the offence of murder under section 300 of the Penal Code which is a technical definition for imposing punishment prescribed under

section 302 of the Penal Code cannot be readily imported to construe the term, "murder" under section 25 of the Hindu Succession Act, 1956. It is not the correct approach to interpret the term used in one enactment dealing with inheritance and succession by importing the definition of a similar term used in a Penal Statute. Plainly Hindu Succession Act, 1956 and the Penal Code, 1860 do not operate in the same field. Therefore, the term, "murder" ought to receive its ordinary and common parlance connotation. If so construed, it implies causing the death of the person or abetting the causing of death of the person, whose property is sought to be inherited, by the person who is alleged to have incurred the disqualification.

21. Thirdly, the particular section of the Penal Code under which the person accused of causing death is convicted, is not of decisive significance. Nor the factum of conviction, as such, is peremptory. Conversely, even if a person is convicted for an offence punishable under sec.302 of the Penal Code that, by itself, may not sustain the disqualification by a Civil Court under sec.25 of Hindu Succession Act, 1956. The factum of the person, who has allegedly incurred disqualification, having committed the murder of the deceased has to be decided independently on evidence before the Civil Court.



22. In the light of the aforesaid principles, reverting to the controversy at hand, in my considered view, the Department is not justified in questioning the competence of the petitioner on the sole ground that the husband of the deceased has been convicted for the offence punishable under section 304-B and not 302 of the Penal Code. In the context of the disqualification under section 25 of the Hindu Succession Act, 1956, there does not appear much qualitative difference in the offences punishable under section 302 and 304-B.

23. The essential ingredients of the offence under section 304-B of the Penal Code are -

- (a) Death of a woman by burns or bodily injury or otherwise than under normal circumstances.
- (b) Such death should have occurred within 7 years of her marriage.
- (c) The deceased was subjected to cruelty or harassment by her husband or by any relative of her husband.
- (d) Such cruelty or harassment should be for or in connection with the demand of dowry; and
- (e) To such cruelty or harassment the deceased should have been subjected to, soon before her death.

24. It is not an essential ingredient for an offence under section 304-B that the death must be homicidal. It would suffice if the death has occurred otherwise than under normal circumstances meaning thereby the death not in the usual course but under suspicious circumstances, even if it is not caused by burns or bodily injury. What is of pivotal significance is the death of a woman, under the circumstances, indicated by section 304-B of Penal Code.

25. At this juncture, it may be apposite to note the legislative intendment in providing for a separate offence of dowry death. To curb the menace of dowry death, the Parliament considered it necessary to carve out a separate offence under section 304-B and also incorporate a presumption under section 113B of the Indian Evidence Act.

26. A profitable reference in this context can be made to a decision of the Supreme Court in the case of **Soni Devrajbhai Babubhai vs. State of Gujrat and Ors.**<sup>7</sup> wherein the legislative object behind the offence of dowry death was expounded.

5] Section 304-B and the cognate provisions are meant for eradication of the social evil of dowry which has been the bane of Indian society 'and continues unabated in spite of emancipation of women and the women's liberation movement. This

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7 (1991) 4 Supreme Court Cases 298.

all pervading malady in our society has only a few lucky exception in spite of equal treatment and opportunity to boys and girls for education and career. Society continues to perpetuate the difference between them for the purpose of marriage and it is this distinction which makes the dowry system thrive. Even though for eradication of this social evil, effective steps can be taken by the society itself and the social sanctions of the community can be more deterrent, yet legal sanctions in the form of its prohibition and punishment are some steps in that direction.

27. It is also necessary to note that the offence of dowry death punishable under section 304-B of the Penal Code can not be said to be a minor offence viz a viz the offence of murder punishable under section 302 of the Penal code. A useful reference in this context can be made to a three Judge Bench decision in the case of **Shamnsaheb M. Multtani vs. State of Karnataka**<sup>8</sup> wherein it was enunciated that the composition of the offence under Section 304-B is vastly different from the formation of the offence of murder under Section 302 and hence the former cannot be regarded as minor offence vis-à-vis the latter.

28. The conspectus of the aforesaid consideration is that a person who has caused the dowry death of a woman, falls within the dragnet of disqualification prescribed under section 25 of the Hindu Succession Act, 1956, if the said factum is proved to the satisfaction

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8 (2001) 2 Supreme Court Cases 577.

of the Civil Court. Therefore, the Department was not justified in questioning the competence of the petitioner on the count that the husband of the deceased has not been convicted for the offence punishable under section 302 but under section 304-B of the Penal Code. The Department's requisition thus stands dispensed with.

29. At this juncture, it is necessary to note that though the citation has been served through paper publication yet, as it is specifically averred in the petition that the husband and in-laws of the deceased, are lodged in District Jail, Village- Kasna Luksar, Gautam Buddha Nagar, Uttar Pradesh, the citations were required to be served in accordance with the provisions contained in Order V Rule 24 of the Code of Civil Procedure, 1908 by sending the citations to the Officer in-charge of the Prison for service on the heirs mentioned at serial Nos. 1 to 3.

30. Before parting, the Court appreciates the invaluable assistance rendered by Mr. Anuj Desai, the learned Amicus Curiae, in deciding the legal issue

Hence, the following order.

**ORDER**

1. The Department's requisition questioning the competence of the petitioner to file the petition stands dispensed with.
2. Citations be issued and served on the heirs mentioned at Serial Nos. 1 to 3 through the Superintendent/Officer In-charge of the District Prison, Village- Kasna Luksar, Gautam Buddha Nagar, Uttar Pradesh returnable 27<sup>th</sup> August, 2024.
3. Petition to, thereafter, proceed in accordance with law and rules.

**(N. J. JAMADAR, J.)**