

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

**CHAMBER SUMMONS NO. 261 OF 2019  
IN  
TESTAMENTARY PETITION NO. 496 OF 2017**

|                                                                        |     |                      |
|------------------------------------------------------------------------|-----|----------------------|
| Tara Pranjivan Sura also known as<br>Tara P. Sura and Taramati P. Sura | ... | Deceased             |
| Amish Vijay Desai                                                      | ... | Applicant/Petitioner |
| Versus                                                                 |     |                      |
| Tushar Pranjivan Sura                                                  | ... | Respondent           |

Mr. M.S. Shah i/b Ms. Shantilal Rao for the Applicant/Petitioner.

**CORAM : R.I. CHAGLA, J.**

**DATED : 28<sup>th</sup> OCTOBER, 2021.**

**P.C. :**

1           The learned Counsel for the Applicant/Petitioner.

2           By this Chamber Summons, the Applicant is seeking dispensation with service of the citation and Petition on Mr. Tushar P. Sura, one of the heirs of the deceased Smt. Tara Pranjivan Sura, on the ground that he is deemed to have acknowledged the Will and codicil of his mother and accepted the same without any dispute.

3           The Applicant has annexed at Exhibits-4, 5 and 6 of the Chamber Summons the documents showing Mr. Tushar P. Sura was aware of the Will and codicil of the said deceased and had taken the movable assets which were coming to his share under said Will and codicil. The Applicant had taken a share of jewellery and silver utensils as per the Will and passed a receipt/writing in favour of authorising trustees of the deceased, to deposit his share and his HUF share in his Yes Bank Account and also has stated that the trustees may consider deposit slips/receipts as his acknowledgment/receipts from his end. It is further stated in the writing dated 13.03.2016 that upon deposit being made in Mr. Tushar P. Sura's bank account the trustees are released from the responsibilities. Notice is taken of these documents Exhibits 4, 5 and 6 of the Chamber Summons. The Applicant has further stated that the copy of the citation was attempted to be served on Mr. Tushar P. Sura in the USA on two occasions but on both the occasions the postal department cannot confirm the delivery or rejection of parcel.

4           In view of the averments in the Chamber Summons and from the documents at Exhibits 4, 5 and 6, it clearly apparent that Mr. Tushar P. Sura has been aware of the Will and codicil of his mother, the said deceased, and has accepted the bequest under the said Will which also amounts to acceptance of the said Will and Codicil without any dispute.

5            Hence, the case is made out for grant of relief sought for by  
the Applicant/Petitioner.

6            Chamber Summons is made absolute in terms of prayer  
clause (b) which reads thus :

*“(b) Considering the Exhibit 4, 5 and 6 to the affidavit in  
support said Tushar P Sura be deemed to have knowledge  
of the will and codicil of his mother and accepted the  
same without any dispute.”*

7            The citation on Mr. Tushar P. Sura is dispensed with.

8            The Chamber Summons is accordingly disposed of.

9            The Petitioner in Petition No.496 of 2017 is entitled to  
proceed further.

Digitally  
signed by  
WAISHALI  
SUSHIL  
WAGHMARE  
Date:  
2021.10.30  
04:52:20  
+0530

(R.I. CHAGLA, J.)