

ary

Before: Shri S. S. Agate

Addl. Registrar (O.S.) /

Addl. Prothonotary and Senior Master

Date : 21st October, 2024.

CALLED FOR COMPLIANCE :

14. TP/1285/2024
[Original]
(ECHCBM02233322023)
with
WILL/454/2024

) **Mr. Manoj M. Mane, Advocate for the Petitioner.**

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PC.: 1. Perused Petition which is filed online. Heard Ld. Advocate for the Petitioner. This Petition is for Probate of Last Will and Testament of the deceased filed by the Petitioner Atmaram Tukaram Bagam, being the Sole Executor named under the Will of the deceased. Deceased Kharban Jaggu Rajbhar, said to have died at Mumbai on 05.02.1996. Copy of death certificate is annexed to the Petition. For identification proof of the deceased, the Petitioner has filed Affidavit dated 08.11.2023 for non-availability of the ID proof of the deceased annexing therewith copy of Share Certificate showing the name of the deceased.

2. Mr. Mane, Advocate for the Petitioner submits that deceased left behind him last Will and Testament which was duly executed at Mumbai, on 07.12.1995. The said Will is in English language.

3. Mr. Mane, Advocate for the Petitioner submits that deceased was governed under the Hindu Succession Act 1956. It is submitted that the parents of the deceased pre-deceased the deceased. That the deceased died as Bachelor. That the deceased had only one Brother. That the Petitioner further states that since the year 1990 the Brother of the deceased had left his House. Hence the

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whereabouts of the Brother of the deceased, mentioned at Sr. No.1, is not known to the Petitioner. The Petitioner tried to search the whereabouts of said Brother of the deceased, from friends and relatives, but despite due and diligent search the Petitioner could not find the same. In view of the same, the Petitioner shall file appropriate application before this Hon'ble Court for serving the Citation upon the Brother of the deceased by way of publication in two newspapers. Save and except as mentioned in para – 8, there are no other legal heirs and next of kin left by the deceased. The Ld. Advocate for the Petitioner submits that there is a delay in filing the present Petition on account of the fact that the Petitioner was ignorant and unaware of obtaining the Grant of the Probate of the Last Will and Testament dated 07.12.1995, left by the Deceased abovenamed. Recently, upon seeking legal opinion, the Petitioner has been advised to obtain a Grant of Probate of the said Last Will and Testament of the Deceased from this Hon'ble Court. In view of the same, Now, the Petitioner is filing the present Petition for obtaining Grant of probate of the Last Will dated 07.12.1995 left by the Deceased abovenamed and therefore there is a delay which is not intentional and/or deliberate. The Petitioner therefore prays that the delay in filing the present Petition may be kindly condoned in the interest of Justice. Thus, the delay is explained.

4. Petitioner's Oath is filed. There is Affidavit of service dated 24.09.2024 for publication of citation in two newspapers upon brother of the deceased whose whereabouts is not known. Affidavit of Balu Ramji Shelke, one of the attesting witness to the Will is filed. Affidavit of service of General Citation is filed. All the Affidavits are also filed online. All other legal

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formalities are complied with. Hence, Petition is granted.

5. Office to issue Probate as prayed after verifying whether any Cross Petition or Caveat is filed.

Addl. Registrar (O.S.) /
 Addl. Prothonotary and Senior Master