

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 06th September, 2024**

FOR COMPLIANCE:

27. TP/1521/2024 P.C. : Dr. Sneha Goyal Ld. Advocate for the Petitioner

[Original]

(ECHCBM0220202
2023)

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Jeevanbai Gulamhusain Tinwala alias Jivanbai Tinwala (For short "Said deceased"). The petitioner, namely Abbas Gulamhusain Tinwala, has filed documents.

2) I have heard Ld. Advocate. I perused the documents, such as true copy of the death certificate of the deceased, identity proof of the deceased, oath in the prescribed format, affidavit of service citation. Ld. Advocate for the Petitioner submitted that she has uploaded the additional affidavit of the petitioner having document no. AMH20240128372D202400006.

3) Said deceased died as a Widow on 11/08/2015 at Gujrat leaving behind her legal heirs, shown in the paragraph No. 4 of the petition. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule. The delay has been explained vide Rule 382 of the Rules.

4) Citation was issued, which has been duly affixed on the conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court(O.S.) Rules, 1980(for short "BHC Rules") and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is

treated as uncontested one.

5) Legal heirs of the deceased have consented by way of Affidavits to grant prayer of petitioner to grant a Letters of Administration, without reserving any right. They have accepted the facts, regarding their relationship, inter-se.

6) Petitioner has filed the administration Bond in prescribed form No. 118 with surety.

7) Ld. Advocate for the petitioner submitted that the petitioner has filed affidavit dated 03.09.2024 and thereby he affirmed that law laid down by the Hon'ble Gujrat High Court in case of Bai Asha vs. Bai Biban (Bombay Law Reporter, LIX at page no .470) applicable to the deceased and petitioner. I have gone through the said ratio. The petitioner states that provision of Hindu Succession Act, 1956 would apply to the Succession of the deceased in view of this statement on oath by the petitioner and in view of provisions of the Hindu Succession Act, 1956, the petitioner, being son of the deceased, is entitled to seek a Letters of Administration. Hence, facts stated by petitioner and heirs of the deceased, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order:

ORDER

- 1) Petition is allowed and the Letters of Administration be granted to the petitioner for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) The petitioner to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

06th September, 2024

Officer on Special Duty,
with Testamentary Department