

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 17th December 2024**

FOR COMPLIANCE:

67. TP/5031/2024 P. C. Ms. Swati Mathkar Ld. Advocate for the Petitioner
(AMH20240128768 :
C202400004)

- 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 Dilip Gangaram Bidaye alias Bidaye Dilip Gangaram (For short "Said deceased"). The petitioner, namely Deepali Dilip Bidaye, 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.
- 3) Said deceased died as a married on 19-06-2022 at Mumbai leaving behind him 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-I of the petition.
- 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) The petitioner being birth patent of the minor has filed

affidavit. In view of the order passed in the Testamentary Petition No. 1701 of 2017, there is no requisition to justify the share of minor legal heir, namely Kimaya Dilip Bidaye as the petitioner is the birth parent of said minor. Ld. Advocate for the Petitioner is relied upon the decision of the Hon'ble High Court passed in TP/4961/2022 dated 23.10.2023. She submits that similar facts of the present petition and therefore, consent affidavit of the birth parent on behalf of the minor is not filed.

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

7) Ld. Advocate for the petitioner submitted that in view of provisions of the Hindu Succession Act, 1956, the petitioner, being Widow of the deceased, is entitled to seek a Letters of Administration. Hence, facts stated by petitioner and heir 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.

17th December 2024

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