

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 25th July, 2025

FOR COMPLIANCE:

104. TP/312/2024 P. C. : Ms. Akshada Pawar i/b Prasad Sarvarkar Ld.
with
WILL/277/2024 Advocate for the Petitioner

- 1) This petition is filed by petitioner, being representative of the beneficiary under the Will executed by Dalpatlal Purshottamdas Shah (herein after the same is referred to as "Testator"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Mumbai on 01.12.1999. Petitioner, namely Sushilaben Rameshchandra Shah, filed the copy of death certificate, identity proof of the testator, Will, petitioner's oath.
- 2) Perused petition. Heard Ld. Advocate for petitioner. Perused documents.
- 3) The petitioner has explained the delay vide Rule 382 of the Bombay High Court (Original Side) Rule, 1980(for short "Rules").
- 4) No executor has been appointed under the Will. The petitioner is representative of the sole Legatee under the Will. Hence, petition is tenable.
- 5) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mumbai on 01.11.1996, in No language. The Will is handed in separately for being filed and kept in a safe place in the Office of the Prothonotary and Senior Master, High Court, Bombay.
- 6) Ld. Advocate for petitioner submits that testator is survived by legal heirs, whose details are given in the petition's paragraph No. 8, as per the provisions of Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in

the petition. Legal heirs of the testator, except Anilaben Shah, have consented to the petition and thereby waived the service of Citation.

7) Citation to non-consenting legal heirs of the deceased, namely Anilaben Shah, was issued. The petitioner states that she is not aware about the whereabouts of Anilben. Hence, petitioner has taken out a Chamber Order, having No. 226/2025, to serve the Citation to non-consenting legal heir of the deceased by publishing citation in the daily Newspaper i.e Active Times in English Language and Divya Bhaskar in Gujarati Language. Accordingly, affidavit of service has been filed by the Ld. Advocate for the petitioner regarding service vide Rule 400 of the Rules. However, non-consenting legal heir did not resist the petition.

8) 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.

9) The petitioner has filed the affidavit of Ajit Narottamdas Shah, one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased signed the Testament in his presence as well as presence of another witness, after going through its contents. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

10) Properties mentioned in the schedule-I of the petition are referred in the Will.

11) Petitioner has executed the administration Bond in the prescribed format. Hence, following order:

ORDER

- 1)** Petition is granted.
- 2)** Office to issue Letters of Administration with Will annexed to the petitioner, as per the Rules, having effect throughout State of Maharashtra.
- 3)** Before issuance of Letters of Administration with Will, the office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

25th July, 2025

**Officer on Special Duty,
with Testamentary Department**