

**Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 15th January 2025**

FOR COMPLIANCE:

81. TP/2243/2024 P.C. : Ms. Neha Upadhyay i/b Mahesh Tiwari Ld.
with
CHOL/467/2024 Advocate for the Petitioner
(ECHCBM021441620
24)
with
WILL/952/2024

1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by SHANTI BARKYA RINJAD W/O. LATE SHRI BARKYA RINJAD (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Tandulwadi, Dist Palghar on 29-04-2020. Petitioner, namely Surekha Amit Chauhan, filed the copy of death certificate, identity proof of the testator, Will along with its official translation, petitioner's oath.

2) Perused petition. Heard Ld. Advocate for petitioner. Perused documents.

3) No executor has been appointed under the Will and the petitioner is the one of the legatee under the Will. Hence, petition is tenable.

4) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 28.12.2018, in Marathi language. In view of the Order of the Hon'ble Court passed in the TP No. 1263/2023, the Ld. Advocate for the petitioner has filed an affidavit stating that the translation of the Will is true translation as per the contents of the Original Will. The original 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.

5) Ld. Advocate for petitioner submits that parents of deceased predeceased Testatrix and testator was survived by legal heirs, as per the

provisions of Hindu Succession Act, 1956. Legal heirs of the testatrix, except Sumathi, have consented to the petition and thereby waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the deceased.

6) Citation to non-consenting legal heir of the deceased, namely Sumathi, was issued, which is duly served upon her vide Rule 400 of the Rules as per the Order passed in CHOL/467/2024. Affidavit of such service is filed on the record. She did not appear and failed to resist the petition.

7) 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.

8) The petitioner has filed the affidavit of Usha Narim one of Attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that he was present and deceased signed the Testament in presence of him and 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. According to the attesting witness, the contents of the said will was read over to the testatrix.

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

10) Other legatees, namely Yogesh, Jatra, Anita, Raju other than petitioner, have their given

consents to grant Letters of Administration to petitioner.

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, upon satisfaction that the administration Bond is properly executed, as per the Rules, 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.

15th January 2025

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