

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 10th January, 2025**

CALLED FOR HEARING :

6 TP/443/2024 (E-filing)
WITH
WILL/204/2024

Mr. Joseph Kelwadi, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Feroza Mustak Rafik. The said deceased died at Bengaluru on 08.09.2022. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.

2. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 15.12.2018. The said Will is in English language and copy of the same is annexed to the petition at Exhibit – “B” and original is handed in separately for being filed and kept in safe place in the office of the Prothonotary and Senior Master of this Hon'ble Court.

3. Ld. Advocate for petitioner submits that petitioner is being sole Executrix appointed under the last Will and Testament of deceased.

4. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 10 of the petition, as per the provisions of the Mohammedan Law. Parents of deceased predeceased the deceased. Husband of deceased namely Mustak Ali Mohamad Rafik

.....2

– 2 –

predeceased the deceased who died on 17.11.2024. Deceased was survived by one son namely Minhaj Mustak Rafik and one daughter namely Sanam Sultan Ali Nassur who is petitioner herein. Consent Affidavit of Minhaj Mustak Rafik dated 20.11.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.10 of the petition.

5. Ld. Advocate for petitioner further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - “C” and all the items which are permissible by law and and Schedule II to be deducted for the purpose of ascertaining the net estate of the deceased. The assets of deceased after deducting the items in Schedule II annexed to the petition is of Rs.99,97,500/- and petitioner has paid necessary court fees for the same.

6. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – “B” is duly executed and witnessed by two attesting Witnesses namely Gizelle Desousa and Sarika Parswani and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Gizelle Desousa dated 05.10.2023 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that Dr. P. B. Malagimani has issued certificate dated 15.12.2018 and stated that deceased is of sound mind and well oriented in time and space.

It is to be further noted in para No. 6 of Affidavit of Attesting Witness that deceased was of sound and disposing mind, memory and understanding and to the best of my belief made and published the same of her own free will and pleasure.

7. It is to be noted that deceased has specifically mentioned in the Will that “I have made this Will voluntarily and in a perfectly sound3

– 3 –

physical and mental condition and I know the contents thereof which are as per my instructions for preparation of my this Will. ”.

8. In the present petition, General Citation was issued on 07.02.2024 and Affidavit of Service of General Citation to that effect is filed on 01.04.2024. Administration Bond dated 05.10.2024 is filed. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

9. After perusal of the petition, Will and submission made by Advocate for petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

- 1) Petition is allowed and probate be granted to the Petitioners herein having effect throughout the State of Maharashtra.
- 2) Before issuance of above said Probate, office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

10.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**