

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 06th May, 2025

FOR COMPLIANCE:

95. TP/2379/2024 P.
[Original] C. :
(ECHCBM0219680
2023)

Shri. Shirish Mathkar a/w Ms. Swati Mathkar Ld.
Advocate for the Petitioner

1) This petition is filed by petitioners, being representatives of the beneficiary under the Will and Testament dated 1st May 1939 and with Second Codicil dated 28th February 1946 (First Codicil is lost as mentioned in the Second Codicil) executed by Soonabai Jehangir Batliboi alias Soonabai Jehanghir Batliboi alias Sunabai Jehangir Batliboi alias Soonabai Jahangir Batliboi alias Soonabai Widow of late Jehangir Framji Batliboi alias Soonabi J. Batliboi alias S. J. Batliboi alias Soonabai Jehangir Batliboy, (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 Mumbai on 24.04.1947. Petitioner, namely (1) Anahita Kaikhusru Batliboi, (2) Rashna Sorabji Batliboi and (3) Hormuz Sorabji Batliboi, petitioner's oath, copy of grant issued in TP/446/1949.

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) The executors, namely (1) Kaikhushru Jehangir Batliboi, (2) Cavasji Jehanghir Batlibai (3) Ardeshir Jehanghir Batliboi, (4) Bachubhai Jehanghir Batliboi, and (5) Dinshaw Hormusji (all since deceased) as Executor and Trustees of the said Will. Executors died on 23.06.1962, 10.11.1990, 06.01.1984, 27.03.1996 and 21.11.1990, respectively. (1) Kaikhushru Jehangir Batliboi, (2) Cavasji Jehanghir Batlibai (3) Ardeshir Jehanghir Batliboi, and 4) Bachubhai Jehanghir Batliboi had

obtained Probate from this Hon'ble High Court on 3rd April 1950 and later amended on 20th March 1952, by reserving the right of remaining Executor viz. Dinshaw Hormusji Petit. However, executor namely Dinshaw Hormusji Petit is also died. Hence, the property shown in the schedule-I is left to be administrated. The petitioners are the representatives of the Beneficiaries namely (1) Kaikhushru Jehangir Batliboi, (2) Cavasji Jehangir Batlibai and (3) Bachubhai Jehangir Batliboi, under the Will. Hence, petition is tenable.

5) Petitioner stated that the deceased deceased died leaving her last Will and Testament dated 1st May 1939 with Second Codicil dated 28th February 1946. In second codicil, it is mentioned that deceased had lost her first Codicil, executed on 04.01.1944. Hence, it was revoked by Codicil. The Will and 2nd Codicil, is kept are kept in a safe place in the Office of the Prothonotary and Senior Master, High Court, Bombay. I have called the said Will and inspected it.

6) Ld. Advocate for petitioner submits that Testatrix is survived by legal heir, whose details are given in the petition, as per the provisions of Indian Succession Act, 1925. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in 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 Will and Codicil is already proved before the Hon'ble Court. Property mentioned in the

schedule-I of the petition are referred in the Will. According to the petitioners, this property is left to be administered.

9) The petitioner was called upon to take steps in respect of the Legacy given to the legatees under the Will and Codicil as well as to execute the administration Bond vide an order dated 20.12.2024 and 22.11.2024. However, this requisition has been dispensed with by the Hon'ble Court vide an order dated 30.04.2025. All representatives of the legatees are the petitioners and therefore they are exempted from furnishing an administration Bond. Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration (De-bonis non) with Will annexed to the petitioners 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.

06th May, 2025

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