

FOR COMPLIANCE:

87. TP/5662/2024) Shri. A K Kharwar Ld. Advocate for the Petitioner
with)
WILL/2270/2024)

1) This petition is filed by the petitioner, being the sole beneficiary under the Will executed by Mariyam Bi W/o. Gulam Ali Ismail Shaikh (herein after the same is referred to as "Testatrix"), for the grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Mumbai on 29-01-2018. Petitioner namely Altaf Hussain Abdul Rehman Chikhhalia, filed the copy of death certificate, identity proof of the testator, Will & petitioner's oath.

2) Perused petition. Heard Ld. Advocate for the 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 the legatee under the Will. Hence, the petition is tenable.

5) Petitioner stated that the deceased left behind her last Will and Testament, which was duly executed at Mumbai on 29.07.2017, in English 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. The advocate for the petitioner submits that the Testatrix is survived by No legal heir and such averment has been made in paragraph No. 08 and 8A as well as vide Rider-I, of the petition, as per the provisions of Muslim Personal Laws. The petitioner affirmed that there are no other legal heirs of the deceased, except as mentioned in the petition. Rider-I is specific and in detail. It is stated that the deceased has no heirs from these categories, as per the Personal Laws, applicable to the deceased.

7) The petitioner, in addition to the regular service, as a precaution, has taken out a Chamber Order, having No. 366 of 2025, to serve the All Concern Citation publishing in the daily newspaper namely, Free Press Journal (English) and Mumbai Urdu News (Urdu) on 12.09.2025. Accordingly, affidavit of service has been filed by the Ld. Advocate for the petitioner regarding service vide Rule 400 of the Rules. However, no one appeared to 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 Mumtaz Mustaq Patel one of Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased has affixed her thumb the Testament in his presence. 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 him all additions and alteration in a Will were existed at the time of execution and contents of the Will were read over to the testatrix by Advocate & Notary G.M. Bhoir before at the time of execution of the Will. Hence, there is sufficient compliance of the Rule 383 & 419 of the Rules.

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.

14th October, 2025

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