

Before: Shri. P A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 09th May, 2025

FOR COMPLIANCE:

57. TP/945/2024 P. C. : Shri. D R Mishra Ld. Advocate for the Petitioner
 [Original]
 (ECHCBM022204720
 23)
 with
 IA(L)/24275/2024
 (ECHCBM021551920
 24)
 with
 WILL/306/2024

1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by MALUKCHAND JATASHANKER TOLIA alias MALUKCHAND J. TOLIA alias MALUKCHAND TOLIA, alias TOLIYA MALUKCHAND (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 30/05/2000. Petitioner, namely DINESH MALUKCHAND TOLIA, 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) 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 Jiten Keshvlal Doshi, alias Jeetu Bhai Doshi, has not appeared to executed the Will. The other executors, namely (1) Kishor keshavlal Doshi and (2) Jayshukhlal Mohanlal Desai are expired. However, their death certificates are not available with the petitioner. Hence, the petitioner has filed an Interim Application No. IA(L)/24275/2024. The Hon’ble High Court has allowed the Interim Application vide an order dated 02.01.2025. Hence, the petitioner is the 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 25.05.1997, in Gujarati language. Its official translation is filed on the record. 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.

6) Ld. Advocate for petitioner submits that testator is survived by legal heirs, whose details are given in the petition, 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, excluding Jayesh, have consented to the petition and thereby waived the service of Citation.

7) Citation to non-consenting legal heirs of the deceased, namely Jayesh was issued, which is duly served upon him on 15.06.2024 by Post Service by sheriff. 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 Vasudeo Vasant Bhide 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. According to him all additions and alteration in a Will were existed at the time of execution and before signing the Will. Hence, there is sufficient compliance of the Rule 383 of the Rules.

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

11) Other legatees, namely Nila Dinesh Tolia, Harsha Shah, Amit Mehata, Krupali Tolia and Ekta Tolia, have given consents to grant Letters of Administration to petitioner.

12) 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, renouncing the right of the Executor namely Jiten Keshvlal Doshi alias Jeetu Bhai Doshi, 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.

09th May, 2025

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