

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 07th July, 2025

FOR COMPLIANCE:

80. TP/1024/2024 P. C. : Ms. Mamta Dave Ld. Advocate for the Petitioner
[Original]
(ECHCBM022170020
23)
with
WILL/330/2024

- 1) This petition is filed by petitioner, being sole beneficiary under the Will executed by DILSHAD BEGUM MOHD. ASGAR TAQUI ALIAS DILASHAD BEGUM TAQUI (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 Mira Road on 16-11-2012. Petitioner, namely KHAIRUNISA SHARAFAT ALI SAYED ALIAS KHAIRUNNISA SHARAFAT ALISAYED, filed the copy of death certificate, identity proof of the testator, Will, 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) No executor has been appointed under the Will. The petitioner is the one of the beneficiary under the Will. Hence, petition is tenable.
- 5) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 06.12.2008, in English language. 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 Testatrix is survived by legal heirs, whose details are given in the petition, as per the provisions of Muslim Personal Laws. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition. Legal heirs of the testatrix have consented to the

petition and thereby waived the service of Citation.

7) Citation to non-consenting legal heirs of the deceased, namely Nahid Mitha, was issued, which is duly served upon him 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. The petitioner states that the both attesting witnesses, namely G. M. KHAN ALIAS GULAM MOHMED MAHMOOD KHAN expired on 27.09.2010 and another witness, namely NASEEM KHAN ALIAS NASEEM GULAM MOHAMMED KHAN, expired on 09.01.2022. Therefore, he has filed an affidavit of Khairunisa Sharafat Ali Sayed alias Khairunnisa Sharafat Ali Sayed and ANJUMARA YAZ AHMED ANSARI, vide Rule 384 of the Bombay High Court (OS) Rules, 1980, in form No.102 of Bombay High Court (Original Side) Rules, 1980. she deposed that deceased signed the Testament in her presence as well as presence of witnesses to the attesting witnesses to the Will, 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 her 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. The petitioner has filed an affidavit of

ANJUMARA YAZ AHMED ANSARI, the married daughter of attesting witness No.2. She identified the signature of attesting witness No.2 and produced the Copy of the Passport to support her statement. Said affidavit is affirmed on 16.09.2024.

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

10) Other legatees, namely Roshan Ara, representatives of Anwar Jahan (died as a widow in year 2023), such as, Muhammad Salaman and Fiazan, have given consents to grant Letters of Administration to petitioner.

11) Office raised requisition to justify the surety to the Bond for the share of non-consenting legal heir, namely Nahid Mitha. However, upon mentioning the Hon'ble Court, vide an order dated 03.12.2024, pleased to dispensed with the said requisitions on condition to file an undertaking. Accordingly, the petitioner has filed such undertaking.

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, 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.

07th July, 2025

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