

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 26th September, 2025

FOR COMPLIANCE:

101. TP/1080/2025 P. C. : Ms. Nikita Sheth Ld. Advocate for the Petitioner
(AMH20240006613C
202400001)
with
WILL/431/2025

1) This petition is filed by petitioner, being the beneficiaries under the Will executed by Pukharajji Devichandji Chhajed alias Pukharajji Devichandji Chhjeda alias Pukaraj D. Chajjed alias Pukhraj Devichand Chhajed (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 30/07/2017. Petitioners, namely (1) Bhavna Ramesh Sancheti & (2) Anjana Lalit Oswal, 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) The capacity of the petitioners were called in question in view of wording of paragraph No. 5 of Will's page No.2. These wordings are reproduced as under, -

"In event of death of my ow of us, the surviving Executant shall enter in possession of the moveable and immovable property belonging to us and the cash left by him or her having the right and appropriation with the life interest"

5) Ld. advocate for the petitioner has relied upon the decision of the Hon'ble Court in case of **Bina Gobindram Nagpal & Ors. Vs. Rajkumar Gobindram Nagpal in Testamentary Suit No. 82/2007 and in Testamentary petition no. 941/2006**. In this regard, it appears from the contents of the Will that estate is bequeathed to

petitioners and life interest is created in favour of surviving executant of the subject Will. Hence, in view of Sec. 219 of IS and illustration No. 3 thereof, legacy is vested in the names of petitioners. Hence, petition is maintainable on their behalf.

6) No executor has been appointed under the Will. The petitioners are the Legatees under the Will. Hence, petition is tenable.

7) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mumbai on 22.11.2010, 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.

8) Ld. Advocate for petitioner submits that testator is survived by legal heirs, whose details are given in the petition's paragraph No. 08, 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 heir of the testator, namely Hiraben Chhajed (a widow), has consented to the petition and thereby waived the service of Citation. One son Kumarpal Pukhraj Chhajed, died bachelor.

9) Citation to non-consenting legal heir of the deceased, namely Hasmukh Pukhraj Chhajed, was issued. The petitioners state that they are not aware about the whereabouts of legal heir of the testator. Hence, petitioners have taken out a Chamber Order, having No. 199/2025 to serve the Citation to non-consenting legal heir of the deceased by publishing citation in the daily newspaper namely, on the 23rd day of May, 2025, the said citation came to be published in the newspaper namely, "The Free Press Journal"-English News Paper and "Navabharat" - Hindi News Paper. Accordingly, affidavit of service has been filed by the Ld. Advocate for the petitioner regarding service vide Rule 400 of the Rules.

However, non-consenting legal heir did not resist the petition.

10) 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.

11) The attesting witness to the Will, is the husband of petitioner No.1. However, this Court has no jurisdiction to go into valid or invalid bequeath on such count. Ld. Advocate for the petitioner has relied upon he decision of the Hon'ble Court in case of **Ruby Cyril D'souza thorough POA holder viz JameshNunes & Ors Vs. Smt. Cecilia Reynold D'souza the widow of the Deceased, Mazgaon, Mumbai & Ors.(in Appeal No. 65 of 2024 in INTERIM APPLICATION (L) NO. 209747/2023 IN TESTAMENTARY SUIT NO. 5/2005 IN TESTAMENTARY PETITION NO. 226 OF 2004)**. In the said case, similar facts were before the Hon'ble Court. Hence, the law laid down by the Hon'ble Court is applicable to present case.

12) The petitioners have filed the affidavit of Ramesh Bakhtawar Sancheti, 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. 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 before signing the Will. Hence, there is sufficient

compliance of the Rule 383 of the Rules.

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

14) Other legatee, namely Hiraben Pukhraj Chhanjed, has given consent to grant Letters of Administration to petitioners.

15) Petitioners have 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 the 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.

26th September, 2025

Officer on Special Duty,
with Testamentary Department