

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 17th March 2025

FOR COMPLIANCE:

85. TP/1389/2024 P. C. : Ms. Sarita Yadav Ld. Advocate for the Petitioner
[Original]
(ECHCBM020035620
24)
with
CHOL/452/2024
(ECHCBM021126920
24)
with
WILL/501/2024

1) This petition is filed by petitioner, being sole of the beneficiaries under the Will executed by Chetan Gopalprasad Sharma (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 Mathura, UttarPradesh on 19-08-2023 Petitioner, namely Chandra Prakash Tiwari, 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) No executor has been appointed under the Will. The petitioner is the sole Legatee under the Will. Hence, petition is tenable.

4) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mathura, Uttar Pradesh on 14.08.2023, in Hindi language. Its official translation are 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.

5) Ld. Advocate for petitioner submits that parents of deceased predeceased testator and testator was survived by legal heirs, as per the

provisions of Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased.

6) Citation to non-consenting legal heir of the deceased, namely Ram Prasad (Uncle), was issued. The petitioner states that he is not aware about the whereabouts of said legal heir of the testator. Hence, chamber order, having No. 452/2024 has been taken out to serve the Citation to non-consenting legal heir of the deceased by publishing citation in the daily newspaper namely, "Free Press Journal and" and "Yashobhoomi". 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.

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 petitioner has filed the affidavit of Jamuna Prasad Sharma one of Attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that he was present and deceased signed the Testament in presence of him and 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.

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

10) 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 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.

17th March 2025

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