

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 25th September, 2025

FOR COMPLIANCE:

79. TP/1675/2024 P. C. : Shri. Rahul Yadav i/b R Bhargavan Ld. Advocate
[Original]
(ECHCBM022228520
23)
with
WILL/622/2024

This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Rita Malkani (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 Mumbai on 26/09/1998. Petitioner, namely Prakash Makhijani, filed the copy of death certificate, affidavit for dispensation of an requisition to produce an identity proof of the testator, Will & 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 one of the beneficiary under the Will. Hence, petition is tenable.

4) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at New Delhi on 08.07.1993, 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.

5) Ld. Advocate for petitioner submits that Testatrix is survived by legal heirs, whose details are given in the petition's paragraph No. 09 and 10 with Rider-I, 10a 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. Petitioner states that heirs of the husband of the deceased are not aware to him and therefore, he has published the citation in the news paper in

this Regard.

6) Petitioner states that parents of the deceased, predeceased the deceased. Deceased's brother, Hiranand died leaving behind his son Rajendra and Petitioner. Deceased's another brother -Gulabrai died leaving behind his widow Meera, daughters Neelam and Pooja. Deceased's sister-Sheila died spinster. Deceased's brother-Tikamdas Javharisingh Makhijani, predeceased the deceased on 19.01.1999. His widow Sundari died on 31.12.1999, they died issue-less. Similarly, Parasram died on 04.06.2009 and his Wife -Jyoti predeceased him on 09.12.2004. They died issue-less.

7) As the petitioner is not aware about the legal heirs of the husband of the deceased Citation to all concern has been issued and same has been published in the daily newspapers namely "Free Press Journal" and "Navbharat" in Hindi Language vide an order passed in the Chamber Order, having No. CHOL/453/2024 (Order dated 09.10.2024). However, no claiming through the husband of the deceased is appeared.

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 states that the attesting witnesses namely Vidya Sagar is died on 15.12.2008. He states that another witness to the Will, namely A.C Murga, is also died and after his death, his family members are shifted abroad. Hence, he has stated such reasons in the

petition's paragraph No. 13. Hence, he has filed the affidavit of Jaya P. Makhijani 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. Furthermore, attesting witnesses are also present and they both signed the Will at the request of the testatrix. 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 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) The testatrix has bequeathed the property to Sheila Makhijani. She died in year 2018 and she was unmarried. Hence, her father's heirs, which are shown in the table of the legal heirs would be comes under the capacity of the representative of said Sheila. Furthermore, property also bequeathed to Tikamdas. He died issue-less. Hence, Tikamdas, sister-Sheila and surviving brother-Gulabrai, being class-II entry (ii) legal heirs as per the provisions of the Hindu Succession Act, 1956, got the right being representative of the said Tikamdas and further upon the death of Sheila, her legal heirs also get the similar right.

12) Hence, Other legatees, namely Rajendra Makhijani, Meera G. Makhijani, Neelam Makhijani and Pooja Makhijani have given consents to grant Letters of Administration to petitioner.

13) 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 India.
- 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.

25th September, 2025

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