

**Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 03rd March 2025**

FOR COMPLIANCE:

64. TP/1829/2024 P. C. : Shri. Tanveer Shaikh Ld. Advocate for the
[Original] Petitioner
(ECHCBM022337420
23)
with
WILL/669/2024

1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Razia Mobin Ahmed Khan (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 13-10-2013. Petitioner, namely Aziz Ahmed Khan, 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 executor, namely Mohd. Iqbal Shaikh have relinquished executorship by filing an affidavit in letter dated 09.11.2023 (page No.35).

5) No executor has been appointed under the Will. The petitioner is the sole Legatee under the Will. Hence, petition is tenable.

6) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 27.12.2011, 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.

7) Ld. Advocate for petitioner submits that parents of deceased predeceased Testatrix and testator was survived by legal heirs, as per the provisions of Shariat Act 1937. The petitioner affirmed that there are no other legal heir of the deceased. Petitioner states that sister Anwari

Shafeeq Shah has expired on 26.07.2021. The petitioner has filed additional affidavit dated 17th day of February, 2025 and thereby stated that husband of Anwari Shafeeq Shah, has expired and there is no legal heir legal heir.

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 Rathod L Hasmukhrai, 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 singing 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 Zoyab, except petitioner, has given consent 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 Mohd. Iqbal Shaikh, 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.

03rd March 2025

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