

**Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 13th March 2025**

FOR COMPLIANCE:

89. TP/2116/2024 P
[Original] C. :
(ECHCBM02029682
024)

with
WILL/2038/2024

Ms. Chitra Mhaske i/b Joy Legal Ld. Advocate for the
Petitioner

1) This petition is filed by petitioner, being one of the beneficiary under the Will executed by Thakorbhai Haribhai Patel (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 04-11-2020. Petitioner, namely Madhuben Thakorbhai Patel, filed the copy of death certificate, identity proof of the testator, Will along with its English translation, 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 legatee under the Will. Hence, petition is tenable.

5) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Gujrat on 21.07.2015, in Gujrati language. In view of the TP No. 1263/2023, the Ld. Advocate for the petitioner has filed an affidavit stating that the translation of the Will is true translation as per the contents of the Original Will. 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 parents of deceased predeceased testator and testator was survived by legal heirs, as per the provisions of Hindu Succession Act, 1956. Legal heirs of the testator has consented to the petition and thereby waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the deceased.

7) Citation to the non-consenting legal heirs of the deceased, namely Nikhil, was issued, which is duly served upon him on 29.07.2024 by sheriff vide BHC Rules. 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.

9) The petitioner has filed the affidavit of (1) Heena Rajan Kansara; (2) Rajan Madanlal Kansara, 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.

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

11) Other legatees, namely Naman, Urjan other than the petitioner, have 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, upon satisfaction that the administration Bond is properly executed, as per the Rules, 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.

13th March 2025

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