

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 16th January, 2025**

CALLED FOR HEARING :

25 TP/2117/2024 (E-filing)
WITH
WILL/2224/2024

Ms. Chitra Mhaske i/b. Joy Legal, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Harishchandra Chandrakant Kadam. The said deceased died at Mumbai on 06.05.2022. Copy of death certificate of the deceased issued by the office of Gram Panchayat Kasai is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card of the said deceased is hereto annexed and marked as Exhibit - “B”.

2. Ld. Advocate for petitioner submits that deceased left behind his last Will and Testament which was duly executed at Mumbai on 22.01.2019. The said Will is in Marathi language and copy of the same is annexed to the petition at Exhibit – “C” and original is handed in separately for being filed and kept in safe place in the office of the Prothonotary and Senior Master of this Hon'ble Court. Translation of the Will is annexed to the petition in compliance of order dated 10.01.2024 passed by the Hon'ble Court (Coram : Manish Pitale, J.) in Testamentary Petition No. 1263 of 2023.

3. Ld. Advocate for petitioner submits that petitioner is being only Executor appointed under the last Will and Testament of deceased.

4. Ld. Advocate for petitioner submits that deceased left behind his legal heirs shown in the paragraph No. 9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Deceased was survived by wife namely Geeta Harishchandra Kadam, three daughters namely2

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Ujwala Rajesh Gole, Rohini Ravindra More, Supriya Sonal More and two sons namely Mahendra Harishchandra Kadam (petitioner herein) and Kunal Harishchandra Kadam. Consent Affidavits of Geeta Harishchandra Kadam dated 06.10.2023, Rohini Ravindra More dated 08.10.2023, Supriya Sonal More dated 11.09.2023 and Kunal Harishchandra Kadam dated 06.10.2023 are filed through e-filing and the same are on record. Ld. Advocate for petitioner submits that non-consenting legal heir of deceased namely Ujwala Rajesh Gole (daughter of deceased) has been served through Bailiff and to that effect Affidavit of Bailiff dated 02.01.2025 from the office of Sheriff, Mumbai is filed through e-filing and the same is on record. Ld. Advocate for petitioner submits that till date no Caveat / objection filed by Ujwala Rajesh Gole (daughter of deceased) hence, petition can be proceeded ahead as per Rules 399, 401 and 402 of the Bombay High Court (Original Side) Rules, 1980. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.9 of the petition.

5. Ld. Advocate for petitioner further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - "C" and all the items which are permissible by law to be deducted for the purpose of ascertaining the net estate of the deceased. The assets of deceased after deduction is of Rs. 4,18,96,634/- and petitioner has paid necessary court fees for the same.

6. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – "C" is duly executed and witnessed by two attesting Witnesses namely Mahendra Harishchandra Kadam and Geeta Harishchandra Kadam and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavits of Mahendra Harishchandra Kadam and Geeta Harishchandra Kadam dated 06.10.2023 of both the Attesting Witnesses to the Will are filed and the same are on record.3

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It is to be noted that Dr. Nirmal C. Jain issued certificate dated 21.01.2019 and stated that deceased is mentally sound to understand the contents of Will prepared today.

It is further noted in para No. 6 of the Affidavit of Attesting Witness that deceased was of a sound and disposing state of mind, memory and understanding and to the best of my belief made and published the same of his free will and pleasure and without any coercion and force.

7. It is to be noted that deceased has specifically mentioned in the Will that “I did this Will willingly and without any coercion and in sound mind”.

8. In the present petition, General Citation was issued on 21.10.2024 and Affidavit of Service of General Citation and non-consenting legal heirs of deceased to that effect is filed on 02.01.2025 through Bailiff from the office of Sheriff, Mumbai. As per submission of Master (Admin) Notice to Collector is issued. Administration Bond dated 07.06.2024 is filed through e-filing. Also, Affidavit of Service of General Citation dated 27.11.2024 is filed. All other legal formalities are complied with.

9. After perusal of the petition, Will and submission made by Advocate for petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

1) Petition is allowed and probate be granted to the Petitioners herein having effect throughout the India.

2) Before issuance of above said Probate, office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

16.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**