

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 23rd July, 2025

FOR COMPLIANCE:

119. TP/2153/2025 P. C. : Ms. Samina Radiowaala Ld. Advocate for the
(AMH20240129272C Petitioner
202400001)
with
WILL/847/2025

- 1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Batul Mohammed Husain Kadar alias Batul alias Batul Mohammed Husein Kader alias Batul W/o Mohammed Hussain (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Udaipur, Rajsthan on 06.04.2024. Petitioner, namely Fatima Mohammed Hussain Kasamnath alias Fatima Mohamed Hussain Kasamnath, 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) 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 his last Will and Testament which was duly executed at Mumbai on 25.02.2021, 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, as per the provisions of Muslim Personal Law (Shariat) Application Act, 1937 (Act 26 of 1937). The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition. Legal heirs of the testatrix have consented to the

petition and thereby waived the service of Citation.

6) 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.

7) The petitioner has filed the affidavit of Ajab Fakhurudin Kader, one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. Attesting witness, in his affidavit deposed that the deceased signed in English Language, however, she signed in Urdu language. However, in paragraph No. 4 of the said affidavit he deposed that the testatrix signed in Urdu. He deposed that deceased signed the Testament in his presence as well as presence of 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 contents of the Will were read over to the testatrix in Gujarati language before signing the Will. Hence, there is sufficient compliance of the Rule 419 of the Rules.

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

9) Other legatee, namely Mhammed Hussain Fakruddin Kassamnath, has given consent to grant Letters of Administration to petitioner.

10) Petitioners have 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 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.

23rd July, 2025

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