

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 14th February, 2025**

CALLED FOR HEARING :

12 TP/2310/2024 (E-filing)
WITH
WILL/921/2024

Mr. Jayant Wani i/b. Jignesh Nishar, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. Ld. Advocate for petitioner seeks permission to carry out corrections in Rider – ‘A’ inserted in the petition by mentioning the word ‘husband’ instead of ‘wife’. The said corrections are allowed. Ld. Advocate for petitioner to carry out the said corrections forthwith. At the request of Ld. Advocate for petitioner, re-verification dispensed with. Ld. Advocate for petitioner re-upload the corrected version of the petition on the official portal of the Bombay High Court.

2. This petition is for Probate of last Will and Testament of deceased namely Nayana Yashwant Khokhani . The said deceased died at Mumbai on 23.03.2021. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.

3. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed and registered with the office of Sub-Registrar, Borivali – 5, Mumbai Suburban at Mumbai on 01.04.2017. The said Will is in English language and copy of the same is annexed to the petition at Exhibit – “B” and original is handed in separately for being filed and kept in safe place in the office of the Prothonotary and2

Senior Master of this Hon'ble Court.

4. Ld. Advocate for petitioners submits that petitioners are Executors appointed under the last Will and Testament of deceased.

5. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents of deceased predeceased the deceased. Husband of deceased namely Yashwant Bhogilal Khokhani predeceased the deceased who died on 10.04.2020. Deceased left no son and was survived by two daughters namely Avani Deepen Shah and Komal Aakash Sheth. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 9 of the petition.

Consent Affidavits of Avani Deepen Shah and Komal Aakash Sheth dated 18.12.2023 are filed through e-filing in favour of the petitioner.

6. Ld. Advocate for petitioner further submits that as regards the properties mentioned in the Will and not shown in the schedule, description thereof is given in para No. 6 of the petition. Deceased left behind her the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities mentioned in para No. 8 of the petition and petitioner has paid the court fees accordingly.

7. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – “B” is duly executed and witnessed by two attesting Witnesses namely Bharat Mangaldas Sheth and Dharti Bharat Sheth and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Bharat Mangaldas Sheth dated 01.03.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that Dr. Sunil H. Kotkar has issued certificate dated 30.03.2017 stating therein that she is mentally fit to prepare and3

understand and signed her Will.

It is further noted in para No. 5 of the Attesting Witness that deceased was of sound and disposing mind, memory and understanding and to the best of my belief made and published the name of his free will and pleasure.

8. It is to be noted that deceased has specifically mentioned in para No. 7 of the Will that “I have been explained the contents and the meaning of this my Will as mentioned above and I have made this my Will with full understanding of my free Will, without any duress or coercion and in my full senses and in good frame of mind”.

9. In the present petition, General Citation was issued on 30.04.2024 and Affidavit of Service of General Citation to that effect is filed on 31.05.2024. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

10. 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.
- 3) Office to issue grant as soon as after uploading the corrected version of the petition on the official portal of the Bombay High Court and the same is approved by the Registry.

14.02.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**