

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 2715 OF 2024
WITH
INTERIM APPLICATION NO. 2632 OF 2025
IN
TESTAMENTARY PETITION NO. 2715 OF 2024**

Subramonya Ayyar, alias Subramonya A.R.
Ayyar, alias Subramonya Anantharama Ayyar,
alias Subramonya Anantha Rama Ayyar .. Deceased

Balan Rama Ayyar .. Petitioner

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- Mr. Anosh Sequeira a/w Mr. Dipesh A. Jain, Advocates for
Petitioner.

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CORAM : MILIND N. JADHAV, J.
DATE : NOVEMBER 14, 2025.

P.C.:

- 1.** Heard Mr. Sequiera, learned Advocate for Petitioner.
- 2.** Present Petition is filed seeking issuance of Letters of Administration with photocopy of Will annexed under Section 278 of the Indian Succession Act, 1925 in respect of the properties and credits of deceased Subramonya Ayyar, alias Subramonya A.R. Ayyar, alias Subramonya Anantharama Ayyar, alias Subramonya Anantha Rama Ayyar. The names and details of legal heirs of the deceased are stated in paragraph No.17 of the Petition. Purpose for filing the present Petition is stated in paragraph No.15 of the Petition. I have perused the same.

3. On 10.06.2025, present Petition was placed before the Officer on Special Duty with Testamentary Department for hearing. It is seen that Order dated 10.06.2025 was passed directing Petitioner to comply with 5 requisitions to obtain grant of Letters of Administration. Order dated 10.06.2025 is reproduced hereunder:-

1. The Ld. Advocate for the Petitioner submits that order 08.05.2025 is not uploaded. Upon perusal CIS submission is accepted Office to upload the order dated 08.05.2025.

2. The petitioner to produce the divorce decree of deceased son-Rajan.

3. The petitioner to file consent of Bavani Ayyar or take steps vide Rule 397 of the Bombay High Court (OS) Rules, 1980 (for short "BHC Rules").

4. The petitioner to prove the fact that the copy of the will, referred in the Petition is the copy of the Will, alleged to have been executed by the

5. The petitioner to file the administration Bond for the gross amount, vide Rule 420 of the BHC Rules.

6. Petitioner to ensure that there is no bar to present the petition vide Sec. 223 of the Indian Succession Act, 1925.

7. S. O. to 24.06.2025.

4. Today when the matter is placed before me, Mr. Sequeira, learned Advocate for Petitioner would deal with requisitions raised by the Officer on Special Duty with Testamentary Department and pray

for issuance of Letters of Administration with Photocopy of Will annexed .

4.1. He would submit that with respect to Requisition No. 1 i.e. production of divorce decree of the deceased son Rajan Ayyar, divorce decree is not in the possession of the Petitioner and despite diligent efforts the Petitioner has not been able to procure the same. He would submit that Death Certificate of the deceased son, Rajan, issued by State of Washington, Department of Health, certifies the marital status of Rajan at the time of his demise as 'Divorced'. It is seen that Death Certificate of Dharmaraja Ayyar alias Rajan Rama Ayyar is appended at Exhibit “E” at page No. 73 of Petition. He would submit that deceased son Rajan’s marital status as divorced is substantiated by a government document i.e. Death Certificate hence he would seek dispensation to produce divorce decree.

4.2. He would submit that with respect to Requisition No. 2 i.e. filing of Consent Affidavit of Bavani Ayyar, she is the widow of the Deceased and she suffers from advanced stage dementia and is admitted to Mountain Vista of Ojai Assisted Living hence she cannot file her Consent Affidavit. He would submit that the Superior Court of California, County of Los Angeles passed Order dated 11.05.2017 granting Letters of Conservatorship dated 17.05.2017 to the Petitioner son and Priya Ayyar (married daughter of deceased) appointing them

as Conservators i.e. Legal Guardians of Bavani Ayyar. He would submit that Order dated 11.05.2017 is appended at Exhibit “H1” page No. 81 of the Petition and Consent Affidavit dated 14.10.2025 of Petitioner in his capacity of Conservator/Legal Guardian of Bavani Ayyar is filed on record hence requirement of Consent Affidavit be dispensed with.

4.3. He would submit that with respect to Requisition No. 3 i.e. proving copy of the Will annexed to petition is the copy of the Will executed by the testators, requisite Affidavits of both attesting witnesses to the Will who are Monica Aguiniga and (ii) Naomi Sue Comfort are filed on record and appended to page No. 108 and 115 of present Petition. He would submit that Petitioner is unable to find the original Last Will and Testament despite a due and diligent search. He would submit that Petitioner states on oath in his Affidavit dated 14.10.2025 that original Will was executed in California, USA and the same existed and that the copy of the Will annexed as Exhibit “C” to the Petition is a true and accurate copy of the original Last Will and Testament of the deceased. Hence he would submit that the Copy of Last Will and Testament of deceased is proved beyond doubt.

4.4. He would submit that with respect to Requisition No. 5 i.e. filing of administration bond for the gross amount as per Rule 420 of the Bombay High Court, Original Side Rules, deceased, and all her legal heirs including the Petitioner, are American citizens and have

their permanent residence /addresses in the United States of America. He would submit that Petitioner does not have any family or friends in India who would be willing to stand as surety for the Administration Bond. He would submit that sole beneficiary under the said Will is the Subramonya Ayyar and Bavani Ayyar Trust which was constituted for the benefit of the Settlers viz. the Deceased and Bavani Ayyar and that Petitioner was made a trustee of the aforementioned Trust vide Order dated 05.01.2022 passed by the Superior Court of California, County of Alameda which is appended at page No. 75 of Petition. He would rely on decisions of the Delhi High Court in the case of *Richa Pardesi vs State*¹ and *Sanjay Suri vs State*² where it is held that administration bond by a sole beneficiary or a sole legatee would not be required as it would have the effect that the sole beneficiary/legatee would be standing surety for himself and hence be redundant and futile. He would submit that Rule 420 of the Bombay High Court Original Side Rules empowers this Court to waive the requirement to file Administration Bond hence he would seek exemption from filing the same.

4.5. He would submit that with respect to 5th Requisition there is no bar under Section 223 or 236 of the Indian Succession Act, 1925 as Petitioner is an adult of sound mind and do not fall under any of the

1 2012 (131) DRJ 92

2 AIR 2004 Delhi 9

disqualifying categories. He would rely on the decision of the Supreme Court passed in the case of *Illachi Devi v. Jain Society*³, and the Madras High Court in *Abraham Samarendranath Sirkar vs Sadhu A.N. Sirkar Foundation*⁴ a Letters of Administration can be granted to an individual person representing the Trust and the true beneficiary under the Trust is the widow in respect of whom the Petitioner and Priya are the Conservators.

4.6. I have heard Mr. Sequeira, learned Advocate for Petitioners and with his able assistance perused the record of the case. It is seen from documents filed on record and submissions made by Mr. Sequeira that all requisitions have been adequately complied with. It is seen that Petitioner son, in the capacity of Conservator i.e. natural guardian of Bavani Subramonya Ayyar (wife of deceased) filed Consent Affidavit on her behalf and is appended to the Petition. It is seen that Citations were served on non-consenting legal heirs and none of them have filed Caveat in accordance with law within the stipulated time period. It is seen that Affidavit of Attesting Witnesses are appended to the Petition. It is seen that Administrator's Oath is at page Nos. 102 to 107 of the Petition. I have perused the same. The same is in order.

5. In view of the above, there can be no impediment in allowing the Petition. Hence, Petition stands allowed in terms of prayer

3 AIR 2003 SC 3397

4 TOS.No.23 of 2003 decided on 30.06.2023

clause which reads thus:-

“(a) Letters of Administration with photocopy of the Will annexed may be granted to him having effect throughout India, limited until the original will is found.”

6. The Testamentary Department is directed to issue grant / probate to the Petitioner within a period of six weeks from today, subject to all requisite compliances and strictly in accordance with law.
7. Issuance of proclamation, if any, stands dispensed with.
8. Testamentary Petition is disposed of in the aforementioned terms.
9. In view of disposal of Testamentary Petition, pending Interim Application is accordingly disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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