

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 19th March 2025

FOR COMPLIANCE:

86. TP/3006/2024 P C. : Shri. B. G. Saraf Ld. Advocate for the Petitioner
[Original]

(ECHCBM020950120

24)

with

WILL/1209/2024

1) This petition is filed by petitioner, being sole beneficiary under the Will executed by Chandrakant Maganlal Tankaria (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 03-04-2024. Petitioner, namely Daksha Kapil Rathod, 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) The executor, namely Lalit V. Gutka, have relinquished executorship by filing an affidavit at Ex. C. The petitioner is the sole Legatee 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 16.01.2023, in English language. 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.

5) 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. The petitioner affirmed that there are no other legal heirs of the deceased. Legal heirs of the testator 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 (1) Prakash Magaalal Tankaria (2) Ashvin Maganlal Tankaria one of 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 contents of the Will were read over and explained to the testator.

Hence, there is sufficient compliance of the Rule 419 the Rules.

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

9) 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, renouncing the right of the Executor namely Lalit V. Gutka, upon satisfaction that the administration Bond is properly executed, as per the Rules, 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.

19th March 2025

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