

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 3rd January, 2025**

CALLED FOR HEARING :

7 TP/3086/2024
(ECHCBM02046052024)
WITH
WILL/1218/2024

Mr. Jayesh Ramesh Vyas, Advocate for petitioners

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. In this matter, para regarding Executors is missing hence, Ld. Advocate for petitioner seeks to carry out corrections in the petition by adding para of Executors. The said corrections are allowed. Ld. Advocate for petitioner to carry out corrections forthwith.

2. This petition is for Probate of last Will and Testament of deceased namely Mina Mukesh Shah alias Meena Mukesh Shah alias M. M. Shah alias MMS alias Minadevi. The said deceased died at Mumbai on 02.09.2019. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Pan Card of the said deceased is hereto annexed and marked as Exhibit - “B”.

3. Ld. Advocate for petitioner submits that petitioner has explained the delay in para No.13 of the petition as per Rule 382 of the Bombay High Court (Original Side) Rules, 1980.

4. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 11.10.2018. The said Will is in English 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 of2

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this Hon'ble Court.

5. Ld. Advocate for petitioners submits that both the petitioners being Executor (husband) and Executrix (daughter) appointed under the last Will and Testament of deceased.

6. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph Nos. 4 and 5 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents of deceased predeceased the deceased. Deceased was survived by husband namely Mukesh Punamchand Shah and married daughter namely Amishi Hiral Gathani who both are petitioners herein. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para Nos. 4 and 5 of the petition.

7. 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. 7 of the petition. Deceased left behind her the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities shown in Schedule II annexed to the petition, are mentioned in para Nos. 8 and 9 of the petition and petitioner has paid the court fees accordingly.

8. 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 Shailesh Punamchand Shah and Prerak Shailesh Shah and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Shailesh Punamchand Shah dated 29.02.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that she was of sound and disposing mind, memory and understanding and to the best of her belief made and published the same as of her free will and pleasure.

9. It is to be noted that deceased has specifically mentioned in para No. 11 of the Will that “I agree to the contents of the will.3

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I have understood of this will and testament and I have made this Will while I am in sound health and of good understanding and in sound and disposing state of mind-and in witness thereto”.

10. In the present petition, General Citation was issued on 15.07.2024 and Affidavit of Service of General Citation to that effect is filed on 30.08.2024 through Bailiff from the office of Sheriff, Mumbai. Notice to Collector is issued. All other legal formalities are complied with.

11. 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 subject to upload the corrected version of the petition, having effect in the State of Maharashtra and elsewhere in 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.

03.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**