

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

CALLED FOR HEARING :

8 TP/3097/2024
 (ECHCBM02077182024)
 WITH
 WILL/1221/2024

Ms. Megha Sanghavi i/b. Dhruve Liladhar and Co., Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioner. Ld. Advocate for petitioner submits that petitioner has filed Chamber Order No. 501 of 2024 for serving the citation upon the legal heirs of son of deceased namely late Saurabh Janak Trivedi by way of substituted service. The said Chamber Order was granted by order dated 25.10.2024 passed by the Additional Registrar (O.S.) / Additional Prothonotary and Senior Master and as per directions in the said order, Ld. Advocate for petitioner published General Citation in two newspapers namely “Free Press Journal” in English language and “Janmabhoomi” in vernacular language i.e. Gujarati language on 06.11.2024. Ld. Advocate for petitioner has filed Affidavit of Service of Publication dated 11.11.2024 and the same was filed through e-filing on the official portal of the Bombay High Court on 12.11.2024.

2. Ld. Advocate for petitioner submits that they have tried to serve the legal heirs of son of deceased by all possible modes of service. Ld. Advocate for petitioner submits that predeceased son of deceased was abandoned by deceased and deceased did not mention about the predeceased son in her Will.

3. Ld. Advocate for petitioner submits that in para 4 of the Will, it is stated as under :

“4. MY FAMILY CONSISTS OF :

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4.1 My daughter-in-law Mrs. Mandakini Parag Trivedi (“Mandakini”) and my Gradnson Devdutt Parag Trivedi”

Ld. Advocate for petitioner submits that petitioner being daughter-in-law of deceased was aware that deceased was having one son by name Saurabh Janak Trivedi who predeceased the deceased which is mentioned in para No. 8 of the petition.

It has been further mentioned in para No. 9 of the petition that Saurabh died on 13th October, 2007. To the best of the Petitioner's knowledge, Saurabh was dis-owned by the deceased and her family. Saurabh left India sometimes in the year 1991 and started residing in the United States of America. Since 1991, he had not maintained any contact or relation with the deceased or her family till he died on 13th October 2007. Therefore, the whereabouts of his legal heirs, if any, are not known to the Petitioner.

4. This petition is for Probate of last Will and Testament of deceased namely Damyanti Janak Trivedi. The said deceased died at Mumbai on 22.05.2023. 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 - “B”.

5. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 08.01.2023. 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 of this Hon'ble Court.

6. Ld. Advocate for petitioner submits that petitioner is being sole Executrix and Trustee appointed under the last Will and Testament of deceased.

7. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 7 of the petition, as per the3

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provisions of the Hindu Succession Act, 1956. Mother and husband of deceased predeceased the deceased. Deceased had two sons namely Parag Janak Trivedi and Saurabh Janak Trivedi. Out of them one son namely Parag Janak Trivedi died on 13.10.2003, leaving behind his wife namely Mandakini Parag Trivedi and son namely Devdutt Parag Trivedi. Another son of deceased namely Saurabh Janak Trivedi whereabouts are not known to the petitioner hence, after petitioner tried to serve by all possible modes, served way of publication as mentioned hereinabove. Deceased was survived by daughter-in-law namely Mandakini Parag Trivedi who is petitioner herein and grandson namely Devdutt Parag Trivedi. Consent Affidavit of Devdutt Parag Trivedi dated 08.04.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.7 of the petition.

8. Ld. Advocate for petitioner further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - “D” and all the items which are permissible by law and for the purpose of ascertaining the net estate of the deceased, after deducting the debts and liabilities is of Rs.7,21,28,437/- and petitioner has paid necessary court fees for the same.

9. 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 Jesal Umrana and Parul Biju and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Jesal Umrana dated 11.03.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted in para No. 5 of the Affidavit of Attesting Witness that deceased was of sound and disposing mind, memory and understanding and to the best of her belief made and published the name of her free will and pleasure.

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10. It is to be noted that deceased has specifically mentioned in para No. 8 of the Will that “I have made my this Will in good and sound mind, body and health and without any coercion or force or undue influence of any nature and of my own free will and desire and after fully understanding the same in all aspects. I am making this Will in my full conscious state being aware of all my acts and bequests contained herein, have been made by me voluntarily and of my own free will, accord and desire”.

11. 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 25.07.2024. Notice to Collector is issued. All other legal formalities are complied with.

12. 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 State of Maharashtra.
- 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**