

**Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 04th April, 2025**

FOR COMPLIANCE:

65. TP/3196/2024 P C. : Shri. Mohan G. Salian Ld. Advocate for the
[Original] Petitioner
(ECHCBM020917520
24)

with
CHOL/561/2024
with
WILL/1288/2024

1) This petition is filed by petitioner, being sole of the beneficiary under the Will executed by MENAKA MUKUND AROSKAR (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Pune on 06-07-22. Petitioner, namely MONIKA RAJSHEKHAR DIVAN, 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) No executor has been appointed under the Will. The petitioner is the Legatee under the Will. Hence, petition is tenable.

4) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Pune on 21.09.2021, in Marathi language its english translation and affidavit for translation is affirmed on 15.10.2024 is produced as per the direction of this Hon'ble Court in TP/1263/2023. 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 Testatrix 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.

6) The petitioner states that she is not aware about the whereabouts of legal heirs of the testatrix. Hence, chamber order, having No. 561/2024, has been taken out to serve the Citation to non-consenting legal heir of the deceased by publishing citation in the daily newspaper namely, "Free Press Journal" and "Navashakti". Accordingly, affidavit of service has been filed by the Ld. Advocate for the petitioner regarding service vide Rule 400 of the Rules. However, non-consenting legal heir(s) did not resist the petition.

7) 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.

8) The petitioner has filed the affidavit of Vishnu Shriram Kelkar, 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.

9) Properties mentioned in the schedule-I of the petition are referred in the Will as well as in residuals clause of the Will.

10) Ld. advocate for the petitioner has pointed out the order of the Hon'ble Court in Interim Application having no. 36307/2024 in Misc. Petition No. 364/2024 dated 09.01.2025. By the said Order, the Hon'ble Court has directed the department to proceeding with the present petition.

11) 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, 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.

04th April, 2025

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