

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 16th April, 2025

FOR COMPLIANCE:

71. TP/3239/2024 P. C. : Ms. Nikita Janvalkar i/b Sonal Mishal Ld.
[Original]
(ECHCBM021052620
24)
with
WILL/1322/2024

Advocate for the Petitioner

- 1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Hemkuvar Vallamji Kariya alias Kariya Hemkuvar Valamji alias Hemkuvar Valamji Kariya (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Mumbai on 14/05/1995. Petitioners, namely (1) Dilip Himatlal Kariya, (2) Parag Himatlal Kariya, 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 petitioner has explained the delay vide Rule 382 of the Bombay High Court (Original Side) Rule, 1980(for short "Rules").
- 4) The executors, namely (1) Ramesh Ramdas Thakkar and (2) Jayantilal Mohanlal Vanjara, have been died on 20.11.2013 & 13.02.2018, respectively and their death certificate have been filed on the record. The petitioners are the legattes under the Will. Hence, petition is tenable.
- 5) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mumbai on 19.05.1990, 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.
- 6) Ld. Advocate for petitioner submits that Testatrix 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 testatrix have consented to the petition and thereby waived the service of Citation.

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) Attesting witnesses are not available. Hence, the petitioner has filed the affidavit of Dilip Himatlal Kariya as per Rule 384 of BHC Rules, vide an order of the Hon'ble Court passed on 29.11.2024. Affidavit is 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 were read over to testatrix, before signing the Will. Hence, there is sufficient compliance of the Rule 419 of the Rules.

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

10) Other legatees, namely Avinash representative of Arunaben, Vijaya Gariba, have given consents to grant Letters of Administration to petitioner. Another legatee under the Will was Zabuben Ratilal Poojara and in her absence

Ramesh R. Poojara. However, now both are not alive and therefore the petitioner has filed affidavit of Vishal R Pujara. He stated that amount is paid. He has consented for grant Letters of Administration to petitioner.

11) Petitioner have executed the administration Bond in the prescribed format. Hence, following order:

ORDER

4) Petition is granted.

5) Office to issue Letters of Administration with Will annexed to the petitioner, satisfaction that the administration Bond is properly executed, as per the Rules, throughout State of Maharashtra.

6) 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.

16th April, 2025

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