

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 13th January, 2025**

CALLED FOR COMPLIANCE :

2 TP/3403/2024 (E-filing)
WITH
WILL/1373/2024

Ms. Tanmayee Salekar, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Pushpa Ishwarlal Kanakia alias Pushpa I. Kanakia alias P. I. Kanakia. The said deceased died at Mumbai on 29.12.2023. 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 - “A1”.

2. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 05.09.2018. The said Will is in Gujarati language and copy of the same is annexed to the petition at Exhibit – “B” 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. Ld. Advocate for petitioner further submits that translation of the Will is annexed to the petition as Exhibit – “B1” in view of order dated 10.01.2024 passed by the Hon'ble Court (Coram : Manish Pitale, J.) in Testamentary Petition No. 1263 of 2023, the said is taken on record.

3. Ld. Advocate for petitioners submits that both the petitioners being Executors appointed under the last Will and Testament of deceased.

4. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 9 of the petition, as per the provisions of the Hindu Succession Act, 1956.

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Parents of deceased predeceased the deceased. Husband of deceased namely Ishwarlal Manmohandas Kanakia predeceased the deceased who died on 30.10.2017. Deceased was survived by three sons namely Shailesh Ishwarlal Kanakia, Mahesh Ishwarlal Kanakia (Petitioner No.1) and Sanjay Ishwarlal Kanakia (Petitioner No. 2) and one married daughter namely Jayashree Anil Bamb nee Jayashree Ishwarlal Kanakia. Consent Affidavit of Shailesh Ishwarlal Kanakia dated 24.04.2024 is filed. Consent Affidavit of Jayashree Anil Bamb nee Jayashree Ishwarlal Kanakia dated 24.04.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 9 of the petition.

5. 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 - “C” and all the items which are permissible by law and and Schedule II to be deducted for the purpose of ascertaining the net estate of the deceased. The assets of deceased after deducting the items in Schedule II annexed to the petition is of Rs. 25,84,79,253.60 and petitioner has paid necessary court fees for the same.

6. 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 Dr. (Mrs.) Rekha H. Patel and Kishor Dwarkadas Vanjara and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Kishor Dwarkadas Vanjara dated 24.04.2024 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. 6 of the Affidavit of Attesting Witness that deceased was of sound and disposing mind, memory and understanding to the best of her belief and made and published the same out of her free will and pleasure, without any pressure from anybody.

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7. It is to be noted that deceased has specifically mentioned in para No. 7 of the Will that “I declare that I have executed this last will and testament in a fully conscious, sound and sound state of mind and of my own free will and without any coercion or coercion”.

8. In the present petition, General Citation was issued on 24.07.2024 and Affidavit of Service of General Citation to that effect is filed on 20.08.2024. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

9. 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 Maharashtra and 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.

13.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**