

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 23rd April, 2025

FOR COMPLIANCE:

85. TP/3608/2024 P. C. : Shri. Mangesh Kokare Ld. Advocate for the
[Original]
(ECHCBM021132820
24)
with
CHOL/54/2025
(AMH20240129126C
202500001)
with
WILL/1416/2024

1) This petition is filed by petitioner, being the representative of sole beneficiary under the Will executed by Mohini Madhu Madikeshwar alias Mohini Madikeshwar alias Mohini M. Madikeshwar (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 Delhi on 10-03-2018. Petitioner, namely Simmi Kunal Sharma, 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) No executor has been appointed under the Will. The petitioner is the Representative of the sole legatee K.B.K. Khanna S/o P. L. Khanna, under the Will. Hence, petition is tenable.

5) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Delhi on 04.02.2017, 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 is survived by legal heir, whose details are given in the petition, as per the provisions of

Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition.

7) Citation to non-consenting legal heir of the deceased, namely Madhu Madikeshwar (a Husband of the deceased), was issued, which is duly served upon him vide Rule 400 of the Rules. The petitioner states that she is not aware about the whereabouts of legal heirs of the testatrix. Hence, chamber order, having No. 54/2025, has been taken out to serve the Citation to non-consenting legal heir of the deceased by publishing citation in the daily newspaper namely, "Navshakti" and "Free Press Journal". 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 did not resist the petition.

8) 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.

9) The petitioner has filed the affidavit of Gulshan Rai Mehta, one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased signed the Testament in his presence as well as presence of 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 all additions and alteration in a Will were existed at the time of execution and before signing the Will. Hence, there is sufficient compliance of the Rule 383 of the Rules.

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

11) Other legal representatives of the sole legatee, namely Neeru Saini, Meenoo Sharma, Sunil Khanna, have given consent to grant Letters of Administration to petitioner.

12) 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 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.

23rd April, 2025

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