

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 07th May, 2025

FOR COMPLIANCE:

77. TP/3652/2024 P. C. : Shri. Akshaan Kanga Ld. Advocate for the
[Original] Petitioner
(ECHCBM020919420
24) with
WILL/1427/2024

- 1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by CHATURBHUI GORDHANDAS MERCHANT (herein after the same is referred to as "Testator"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Nottingham Place, Westminster, London, United Kingdom on 30.06.1995. Petitioner, namely Uday Chaturbhui Merchant, filed the copy of death certificate/s, identity proof of the testator, Will, petitioner's oath. The petitioner has been produced extract of the Disposed Register entry in the cemetery instead of death certificate date of death is tallied, fact of the death upon the said extract is appeared to have been proved. Furthermore, petitioner vide an affidavit dated 20.02.2025 produced the copy of the death certificate (Page no. 09)
- 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 executor, namely Sushila Chaturbhui Merchant is reported to have been died on 10.10.2007 and her death certificate has been filed on the record.
- 5) No executor has been appointed under the Will. The petitioner is the one of the legatee under the Will. Hence, petition is tenable.

6) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 03.06.1995, 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.

7) Ld. Advocate for petitioner submits that testator is survived by legal heirs, 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. Legal heirs of the testator have consented to the petition and thereby waived the service of Citation.

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 Dr. Rajesh M. Rao, 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 legatees, namely (1) Niranjana, (2) Prashant Dwarkadas (3) Pranav Dwarkadas; (4) Palomi d/o Uday; (5) Kunal, have given consents to grant Letters of Administration to petitioner.

12) The testator has bequeathed a donation to (1) Shrinathji Temple at Nathdwara, (2) Shri.Gokul Chandramaji the diety at Kama in Rajsthan, (3) Narsi Khatau Family Thakurji Trust, (4) Girdharlalji Maharaj of Kaman and (5) Indra Betiji. The petitioner states that he has paid the amount and filed such affidavit affirmed on 20.02.2025 and produced receipts at Ex. E to I.

13) 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.
- 4)** Office to ensure that petitioner has produced the death certificate of the deceased.

07th May, 2025

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with Testamentary Department**