

**BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 20th January 2025**

Sr. No. 26-TP/3676/2024 with WILL/1445/2024
(ECHCBM02040982024)

Ms. Khushi Dhanesha i/b. Vashi and Vashi, Advocate for the petitioner.

For Compliance :

1. Perused the Petition. Heard Advocate for petitioner. The present petition is filed for Probate and last will and Testament of deceased viz. Niranjana Jugalkishore Merchant who died at Mumbai on 05.12.2018. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "A1" to the petition.

2. Advocate for the petitioner submits that the said deceased, at the time of her death, was governed by the Hindu Succession Act, 1956 and having fixed place of abode at Flat No.51, 'B' Building, 5th Floor, Siddharth CHS Ltd., 21 Laxmibai Jagmohandas Marg (formerly known as Nepeansea Road), Mumbai 400036 and left movable and immovable properties in the State of Maharashtra.

3. That the deceased has left a writing, which is her last Will and Testament dated 23.02.2011. The original of the said last Will and Testament is marked as Exhibit 'B' and 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. The said Will is in English language and copy of the same is annexed to the petition at Exhibit “B” to the petition.

4. Advocate for the petitioner submits that the Petitioner is the Executrix namely (1) Dr. Nandini N. Momaya alias Nadini Jugalkishore Merchant (2) Roopa A. Ghia (alias Roopa Jugalkishore Merchant) in the said Last Will and has filed for Probate in his capacity as the Executor of the said Last Will.

Advocate for the petitioner submits that Roopa A. Ghia has renounced her right to act as an Executor under the said Will. The affidavit is filed on line in the Registry on 11.11.2024.

5. Advocate for the petitioner submits that the said Last Will was duly executed by the Deceased at Mumbai in the presence of (1) Sheela Ashwin Chiniwalla and (2) Kaushal P. Dalal. The said Will is unregistered. The said will is annexed as page no. 15 to 17 to the petition.

6. Advocate for the petitioner submits that the properties which were left behind by the deceased and which are specified in the Schedule no. I which is annexed to the petition as Exhibit “D” to the petition and the petitioner has also annexed Schedule no. II annexed as Exhibit “E” all the items which are permissible by law 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. 9,62,05,208.13/- and the petitioner has paid necessary requisite court fees for the same.

7. Advocate for the petitioner submits that the said will is in English language and will is duly executed and signed by the testatrix/deceased i.e. Niranjana Jugalkishore Merchant and two attesting witnesses viz. (1) Sheela Ashwin Chiniwalla residing at 41, B Siddharth 21, Nepeasea Road, Bombay – 400036. and (2) Kaushal P. Dalal residing at 406, Prabhu Kunj, 5 Pedder Road, Mumbai – 400026.

Advocate for the petitioner submits that it is mentioned in the Affidavits of Attesting witness that at the time of execution of said will the said deceased confirmed subscribing his signature to the said Will and she was of sound and disposing mind, memory and understanding and to the best of my belief made and published the name of his free will and pleasure.

8. Advocate for the petitioner submits that as per requirement of Rule No. 374 of High Court Original Side Rule 1980 and Indian Succession Act, 1925, the affidavit of one of the attesting witness viz. (1) Sheela Ashwin Chiniwalla is annexed as Exhibit “C”.

9. Advocate for the petitioner submits that the parents and husband of the deceased predeceased the deceased.

The deceased left behind her legal heirs daughters viz. (1) Dr. Nandini N. Momaya alias Nandini Jugalkishore Merchant (daughter of the petitioner/petitioner herein), (2) Roopa A. Ghia alias Roopa Jugalkishore Merchant had given their consent for issuance of probate in favour of Dr. Nandini N. Momaya alias Nandini Jugalkishore Merchant, petitioner. The Consent Affidavit is annexed as page no. 30 to 32.

10. Advocate for the petitioner submits that there is delay of filing this petition be condoned as the concerned authorities asked for legal representation to transfer the property in favour of the Legal heirs. In view thereof, delay is condoned.

11. In the present petition General citation was issued on **26.07.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **12.08.2024** for proving General citation. Notice to Collector is issued. After perusal of the petition, will and submission made by the Advocate for the petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

1) Petition is allowed and the probate be granted to the petitioner herein having effect throughout in the State of Maharashtra.

2) Before issuance of the probate, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.

ksa/rvr

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**