

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

Sr. No. 30-TP/3731/2024 with
WILL/1469/2024
(ECHCBM02064842024)

Mr. Mazhar Khan a/w. Akash S Bhogil i/b. Rohan Surve,
Advocates for the petitioner.

For Compliance :

Advocate for the petitioner is directed to carry out correction in cause title as well as in par no. 5 with respect to word “sole Executor” replacing it with word “sole Executrix”. He will upload the corrected version and get it approved within one week. Reverification is dispensed with,

1. Perused the Petition. Heard Advocate for petitioner. The present petition is filed for Probate and last will and Testament of deceased viz. KUMUD NAGINLAL BAXI, who died at Mumbai on 01.11.2016. 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 102, 1st Floor, Mangal Aadesh, 14th Road, Santacruz (E), Mumbai - 400 055 and/or left property

within Greater Bombay and in the State of Maharashtra and elsewhere in India.

3. That the deceased has left a writing, which is her last Will and Testament dated 15.08.2015. 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 Sole Executrix namely Parul Haren Baxi, in the said Last Will and has filed for Probate in his capacity as the Sole Executrix of the said Last Will.

5. Advocate for the petitioner submits that the said Last Will was duly executed by the Deceased at Mumbai in the presence of (1) Sandeep Jasvantlal Shah (2) Vipul Vyomesh Baxi. The said will is annexed as Exhibit "B".

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 "C" to the petition and the petitioner has also annexed Schedule no. II 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. Rs. 1,03,29,590/- 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. KUMUD NAGINLAL BAXI, and two attesting witnesses viz. (1) Sandeep Jasvantlal Shah residing at E-12, Dinath Wadi, L. J. Road, Opp. City Light Cinema, Mahim, Mumbai - 400 016 and (2) Vipul Vyomesh Baxi residing at B-608 Sunderdham Co-operative Housing Society Ltd., Off. S. V. Road, Rambaugh Lane, Borivali (West), Mumbai – 400 092.

Advocate for the petitioner submits that it is mentioned in the Affidavit of Attesting witness that at the time of execution of said will the said deceased confirmed subscribing her signature to the said Will and he 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) Sandeep Jasvantlal Shah as page no. 28 to 31 to the petition.

9. Advocate for the petitioner submits that the parents of the deceased predeceased the deceased. The husband of the deceased viz. i.e. Naginlal Dhirajlal Baxi has expired on 09.03.2017. The deceased left behind her legal heirs married daughters and sons viz. (1) Vyomesh Naginlal Baxi. (son of the deceased), (2) Mukesh Naginlal Baxi (son of the deceased) (3) Smita Bakshi Sheth (Married daughter of the deceased), (4) Haren Naginlal Baxi (son of the deceased) had given their consent for issuance of probate in favour of Parul Haren Baxi, petitioner.

The Consent Affidavits of Vyomesh Naginlal Baxi, Mukesh Naginlal Baxi, Smita Bakshi Sheth are annexed as page no. 32 to 37.

The consent affidavits OF HAREN NAGINLAL BAXI MUKESH NAGINLAL. BAXI are annexed separately to the petition.

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 **05.11.2024** 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.

Office to issue probate grant as soon as Advocate for the petitioner carry out correction into the petition and upload the corrected version and get it approved.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**