

**Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 11th March 2025**

FOR COMPLIANCE:

77. TP/3846/2024 P. C. : Shri. Nishant Tripathi a/w Shri. Panav Vaidya i/b
[Original]
(ECHCBM021213120
24)

M. Tripathi & Co. Ld. Advocate for the Petitioner

1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Kaushalya Daulatram Wadhwa @Wadhwani (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Mumbai on 23-07-2009. Petitioner, namely Amarlal Daulatram Wadhwa @ Wadhwani, 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) The executor, namely Srichand Daulatram Wadhwa @ Wadhwani had obtained the Probate of the Will in Testamentary Petition No. 650 of 2012. However, before administering the property, he died. Hence, the petitioner being the one of the beneficiary under the Will, presented this petition for grant of Letters of Administration with Will Annexed(De-Bonis-Non). The office has raised an objection as to capacity of the petitioner, as he relinquished his right to obtain the probate vide filing his affidavit. The Hon'ble Court vide an Order dated 05.02.2025, dispensed with the said objection and directed to proceed with the matter.

5) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 20.03.2006, in

English language. The Will No 265 of 2012 is already deposited with the Office of the Prothonotary and Senior Master, High Court, Bombay. The petitioner has produced True Copy of the Grant issued in TP No. 650/2012(Ex.B).

6) Ld. Advocate for petitioner submits that parents of deceased predeceased Testatrix and testator was survived by legal heirs, as per the provisions of Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased.

7) Office has directed the petitioner to file the consent of legal heirs or serve the citation. The Hon'ble Court vide an order dated 05.02.2025, dispensed with this requisition. However, the petitioner has filed the Consent affidavits of Ravi Wadhawani and Neal Wadhawani, children of Srichand Wadhawa (Executor in earlier 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 Will is already proved in TP 265-2012. Properties mentioned in the schedule-I of the petition are referred in the Will. In view of the Order dated 05.02.2025, the citation is not served on other legatees, namely Ratan Wadhawa @ Wadhawani, Karishma, Reena, who are also legatees under the Will.

10) The Petitioner has filed an administration Bond in prescribed format, as per the BHC Rules,

1980.

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration (De-Bonis-Non) with Will annexed to the petitioner, upon satisfaction that the administration Bond is properly executed, as per the Rules, throughout the 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.

11th March 2025

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with Testamentary Department**