

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 14th February, 2025**

CALLED FOR HEARING :

23 TP/3849/2024 (E-filing)
 WITH
 WILL/1521/2024

Mr. Deepak Chitnis i/b. M S Parte, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Sudhir Keshav Nadkarni. The said deceased died at Mumbai on 18.05.2022. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card / Pan Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.

2. Ld. Advocate for petitioner submits that deceased left behind his last Will and Testament which was duly executed at Mumbai on 28.03.2022. The said Will is in English language and copy of the same is annexed to the petition at Exhibit – “B” and original is handed in separately for being filed and kept in safe place in the office of the Prothonotary and Senior Master of this Hon'ble Court.

3. Ld. Advocate for petitioner submits that petitioner is being one of the Executor appointed under the last Will and Testament of deceased.

Ld. Advocate for petitioner further submits that one of the Executrix Mrs. Nivedita Sudhir Nadkarni has signed her Affidavit thereby confirming therein that she has renounced her right as an Executrix, she is use to come to Mumbai but permanently residing at USA and she will not be able to come to India due to working in a Hospital in USA and

due to unavoidable circumstances, she is unable to continue to act as the Executrix with respect to the present application for Probate, hence it is practically impossible for her to act as Executrix to file a Probate Petition in this Hon'ble Court thereby, she has renounced and released her right to act as an Executrix for the reasons more particularly mentioned in the said Affidavit. The said Executrix has signed her Affidavit dated 02.12.2023 and the same is filed through e-filing.

4. Ld. Advocate for petitioner submits that deceased left behind his legal heirs shown in the paragraph No. 10 of the petition, as per the provisions of the Hindu Succession Act, 1925. Parents of deceased predeceased the deceased. Wife of deceased namely Sudeshna Sudhir Nadkarni predeceased the deceased who died on 10.01.2021. Deceased has no son and was survived by two daughters namely Anuradha Jaysheel Mallapur who is petitioner herein and Nivedita Sudhir Nadkarni. Consent Affidavit of Nivedita Sudhir Nadkarni dated 02.12.2023 is filed in favour of the petitioner namely Anuradha Jaysheel Mallapur and the same is annexed to the petition at page Nos. 29 to 32. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.10 of the petition.

5. Ld. Advocate for petitioner further submits that as regards the properties mentioned in the Will and not shown in the schedule, description thereof is given in para No. 7 of the petition. Deceased left behind her the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities shown in Schedule II annexed to the petition, are mentioned in para No. 8 of the petition and petitioner has paid the court fees accordingly.

6. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – “B” is duly executed and witnessed by two attesting Witnesses namely Neeraj Redkar and Madhav Limaye

and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Neeraj Redkar dated 04.11.2024 and Madhav Limaye dated 28.10.2024 being both the Attesting Witnesses to the Will are filed and the same is on record.

It is to be noted that in para No. 6 of the Affidavit of Attesting Witnesses stated that deceased 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.

7. It is to be noted that deceased has specifically mentioned in para No. 17 of the Will that “I am in good physical health and sound mental condition to make a Will. I have made this Will out of my free will, when I am in sound health and in good understanding”

8. In the present petition, General Citation was issued on 29.07.2024 and Affidavit of Service of General Citation to that effect is filed on 23.09.2024 through the office of Sheriff of Mumbai. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

9. After perusal of the petition, Will and submission made by Advocate for petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

1) Petition is allowed and probate be granted to the Petitioners herein having effect throughout the State of Maharashtra and co-Executrix namely Nivedita Sudhir Nadkarni has relinquished and renounced her right of co-executorship in favour of the petitioner viz. Anuradha Jaysheel Mallapur.

2) Before issuance of above said Probate, office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

14.02.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**

