

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 25th March, 2025

FOR COMPLIANCE :

87. TP/3878/2024 P. C. : Shri. Rahul Singh Ld. Advocate for the Petitioner

[Original]
(ECHCBM0209999
2024)
with
WILL/1535/2024

1. Ld. Advocate for the Petitioner again on point of satisfaction of Rule 397, regarding the service of citation of the sole surviving legal heirs of the deceased/testatrix (i.e. **son** of the deceased), namely Keyur Chitrabhanu Pathak, in light of the consent affidavit filed by the petitioner and her husband, namely Mr. Shirish Chitre and Mrs. Jayashri Shirish Chitre, as per the Guardianship Certificate issued under 14 of the National Trust Act, 1999.

2. The said certificate is issued for the limited purpose of the maintenance of the said Keyur. Hence, it is required to be considered that whether consent filed by the guardian on relying upon the said consent can be accepted as per the Rule 397 of the Bombay High Court (OS) Rules, 1980 (for short "BHC Rules").

3. Ld. Advocate for the Petitioner referred the Copy of the Grant(Ex.), issued in the earlier Testamentary Petition No. 2060/2018 as well as order passed by the Hon'ble Court in the Misc. Petition for revocation of the Grant, having (L) No. MPT/8918/2024. In light of these two orders, Ld. Advocate for the Petitioner submits that consent filed by the petitioner and her husband may be treated as valid. Alternatively, he further argued that if that is not accepted for compliance of provision of Rule 397 of BHC Rules, then fresh citation may be issued to the Keuvyr for compliance of 397 of BHC Rules. However, in this regard there will be a question that if such citation is issued then to whom it will be served. In this regard, Ld. Advocate for the Petitioner submits that citation may be served either on petitioner or husband of the petitioner who is also a guardian.

4. In the light of this submission, adjourned to 28.03.2025 for considering this submission and further order according to law.

25.03.2025

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with Testamentary Department