

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

Sr. No. 34- TP 3884 of 2024 with
WILL/1540/2024
(ECHCBM02114962024)
Mr. Jayant Wani, 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. Jayashree Balkrishna Palav alias Smt. Jayashree Balkrishna Palav alias J. B. Palav who died at Mumbai on 16.05.2017. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "B" 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 A-b, Roop Pooja CHSL., Jam Mandir Marg, Sarvodaya Nagar, Mulund West, Mumbai-400 080 and or left property within Greater Bombay and in the State of Maharashtra.

3. That the deceased has left a writing, which is her last Will and Testament dated 14.12.2016. The original of the

said last Will and Testament is marked as Exhibit 'C' 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 "C" to the petition.

4. Advocate for the petitioner submits that the Petitioner is the Executor namely Umesh Balkrishna Palav alias Shri Umesh Balkrishna Palav, in the said Last Will and has filed for Probate in his capacity as the Executor 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) Ashok Namdev Dusankar (2) Rajesh Dasharath Kanade. The said Will is unregistered. The said will is annexed as Exhibit "C".

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 "E" to the petition and all the items which are permissible by law for the purpose of ascertaining the net estate of the deceased. The assets of deceased in Schedule I annexed to the petition is of Rs. 79,93,302/- 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. Jayashree Balkrishma Palav alias Smt. Jayashree Balkrishna Palav alias J. B. Palav and two attesting witnesses viz. (1) Ashok Namdev Dusankar residing at L1802, Neptune Color Scape Levender, D. D. U. Marg, Mulund West, Mumbai-400 080 and (2) Rajesh Dasharath Kanade residing at A-1103, Ganraj heights, Kolbad Road, Near Mandale Talav, Thane, West, Maharashtra – 400 601.

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 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 her 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) Ashok Namdev Dusankar is annexed as page no. 18 to 22 to the petition.

9. Advocate for the petitioner submits that the parents of the deceased predeceased the deceased. The husband of the deceased viz. Balkrishna Mahadev Palav died on 09.04.2017. Copy of the death certificate is annexed as

Exhibit “F”. The deceased left behind her legal heirs son and married daughters viz. (1) Umesh Balkrishna Palav (son of the deceased/petitioner herein) , (2) Anita Ashok Dusankar nee Vanit Balkrishna Palav (married daughter of the deceased), (3) Madhura Utkarsh Sawant nee Charusheela Balkrishna Palav (married daughter of the deceased), (4) Manisha Rajesh Kanade nee Manisha Balkrishna Palav (married daughter of the deceased).

Advocate for the petitioner submits that Anita Ashok Dusankar nee Vanit Balkrishna Palav, Madhura Utkarsh Sawant nee Charusheela Balkrishna Palav, Manisha Rajesh Kanade nee Manisha Balkrishna Palav had given their consent for issuance of probate in favour of Umesh Balkrishna Palav petitioner. The Consent Affidavits are annexed as page no. 23 to 34.

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 **29.07.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **19.10.2024** 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.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**