

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 18th March 2025

FOR COMPLIANCE:

77. TP/3909/2024 P
[Original] C. :
(ECHCBM021244320
24)

with
WILL/1548/2024

Shri. Shane Cardoz i/b Viral Shah Ld. Advocate
for the Petitioner

1) This petition is filed by petitioner, being beneficiaries under the Will executed by Mani Jimmy Oonwalla (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Mumbai on 02-03-2014. Petitioners, namely (1) Naval Jimmy Oonwalla, (2) Dhun Jimmy Oonwalla,, filed the copy of death certificates, 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 Captain Adil N. Vesuvala, is reported to have been died on 10.07.2022 and his death certificate has been filed on the record. The petitioners are Beneficiaries under the Will. Hence, petition is tenable.

5) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 28.09.1997, in

English language. The original Will 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.

6) Ld. Advocate for petitioner submits that parents of deceased predeceased Testatrix and testator was survived by legal heirs, as per the provisions of Indian Succession Act, 1925. The petitioner affirmed that there are no other legal heirs of the deceased.

7) 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.

8) The petitioner has filed the affidavit of 384 Mehar Hoshang Elavia, as attesting Witnesses to the Will, namely Fardoon Jal Oonawlla & Limji Banaji are died on 14.08.2007 & 02.07.2006 respectively. Hence, as per Rule 384 of Bombay High Court (Original Side) Rules, 1980, the petitioners have filed an affidavit of Mehar Hoshang Elavia, by relying upon the law laid down by the Court in case of Ramprakash Shrikrishanlal Aggarwal vs. Nandlal

Ramprakash Aggarwal & Anr. Testamentary Petition No. 50/2011) dated 03.02.2012. The petitioners have made an averment in the petition that attesting witnesses are no more and Mehar Hoshang Elavia were present along with the attesting witnesses. He deposed that he was present and deceased signed the Testament in presence of attesting witnesses, after going through its contents. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will. Hence, the evidence of this witnesses enough to accept the fact that signatures of the testatrix and attesting witnesses were existing at the time of execution of the Will.

9) Properties mentioned in the schedule-I of the petition are referred in the Will.

10) Petitioners have executed the administration Bond in the prescribed format. Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue Letters of Administration 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.

18th March 2025

**Officer on Special Duty,
with Testamentary Department**