

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 04th JANUARY, 2025**

CALLED FOR COMPLIANCE :

84 TP/4218/2024
with WILL/1676/2024

Mr. Dwij Mahimtura i/b. Kajal Mahimtura, Advocate for petitioner

PC : 1. Advocate for the petitioner submits that the attesting witnesses to the will and witnesses who were present in the office of the Registrar were need not to be the same since the registration of the will is not mandatory as per Indian Succession Act'1925 and one of the attesting witness to the will has already filed an affidavit as per the provision of Indian Succession Act'1925 as well as Bombay High Court Rule 374. Advocate for the petitioner further submits that the attesting witness to the will is attesting to the contents of the will and he was present with testator at the time of writing of the said will and the testator signed the will in his presence. While as the witness who are before the Registrar merely identifying the testator who is present for registering the document and no contents of the will or signature on the will. Hence, She submits that since the registration of the will itself is not mandatory under Section 18 of Registration Act, 1908, the same can be considered.

After perusal of the petition and hearing submission of Advocate for petitioner and as per provision of law I am proceeding with the present petition ahead.

2. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Probate of last Will and Testament of deceased namely Santosh Harikrishan Sethi alias Santosh Sethi. The said deceased died at Mumbai on 30.04.2024. Copy of death certificate of the deceased is hereto annexed and marked as

Exhibit – “A”. Copy of the Pan Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.

3. Ld. Advocate for petitioner submits that deceased left behind his last Will and Testament which was duly executed at Mumbai on 26.10.2021 and the same was registered with The Sub-Registrar of Assurances at Andheri of the District Mumbai Suburban District bearing serial no. BDR1-13721-2021 dated 26th October, 2021. 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.

4. Ld. Advocate for petitioners submits that petitioner being sole Executrix appointed under the last Will and Testament of deceased.

5. Ld. Advocate for petitioner submits that deceased left behind his legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents of deceased predeceased the deceased. One daughter of deceased namely Ritu Hemant Pajankar (nee Ritu Hari Sethi) predeceased the deceased. Deceased was survived by her husband namely Harikrishan Gokalchand Sethi, daughter namely Rina Sanjay Kumar Pahuja (Petitioner herein), grandson namely Nikhil Hemant Pajankar and granddaughter namely Mansi Hemant Pajankar. Consent Affidavit of Harikrishan Gokalchand Sethi dated 29.07.2024 is filed. Consent Affidavit of Nikhil Hemant Pajankar dated 05.08.2024 is filed. Consent Affidavit of Mansi Hemant Pajankar dated 05.08.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 8 of

the petition.

The said will was registered on 26.10.2021 before BDR1 Joint Sub Registrar Andheri No. 1, Mumbai. The Advocate for the petitioner submits that witnesses to registration of will before the Registrar was (1) Samir Nabi Shaikh residing at 100 Prem Nagar Irla, M.V. Road, Vile Parle West, Mumbai – 400056. (2) Mohit Nandlal Yadav residing at 272 Prem Nagar, Irla, M.V. Road, Vile Parle (West), Mumbai – 400056.

6. 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 6 of the petition. Deceased left behind him the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities mentioned in para No. 7 of the petition and petitioner has paid the court fees accordingly.

7. 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 Madhu Sethi and Rajesh Bijlani and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Madhu Sethi dated 26.07.2024 one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that Dr. Pravin U. Koppikar issued Certificate dated 21.10.2021 and certified that deceased found physically fit and mentally sound and capable of making her Will.

8. It is to be noted that deceased has specifically mentioned at para No. 7 of the Will that “I am not prevented by any law or otherwise to make my last Will and dispose of my said flat as stated above in the matter deem fit”.

9. In the present petition, General Citation was issued on 02.09.2024 and Affidavit of Service of General Citation to that effect is filed on 20.09.2024. Notice to Collector is issued. All other legal formalities are complied with.

10. 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 India.
- 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.

04.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**