

Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date :- 09th May, 2025

FOR HEARING :

61. TP/4423/2024 P. C. : Ms. Swati Mathkar i/b Shirish Mathkar Ld. Advocate for
(AMH20240131949C the Petitioner
202400003)
with
CHOL/66/2025
(AMH20240131949C
2025000004)
with
WILL/1759/2024

1. Ld. Advocate for the petitioner is present. Perused petition and Will. As per the will, Exhibit-B, particularly vide para no. 3. the property mentioned at Sr. No.1 has been bequeathed to the Hormazdiar, brother of the deceased. Similarly, vide para no. 11, a residuary clause, the property has been bequeathed to the Hormazdiar and if said Hormazdiar pre-deceased to the deceased, then Jimi and his wife, namely Hillu.

2. The subject matter of the petition is not bequeathed to the petitioner under the Will. However, in TP No.580/2010, the compromise took place and it has been recorded vide Order dated 08/11/2023. Accordingly, the petitioner and his mother, namely Hillu, obtained the Probate of the Will executed by said Hormazdiar. As per the provision of Section 211 r/w 213 of the Indian Succession Act, 1925, the petitioner is now representative of the said Hormazdiar, being the one of the executor of his Will. Hence, Sec.233 of the IS Act will now applicable, as the petitioner has acquired the capacity of the Representative of the said Hormazdiar.

3. Furthermore, as per paragraph No. 14 of the consent terms, referred herein above, the compromise is recorded and grant of Letters of Administration with Will referred in the petition is agreed to be issued to the petitioner and Hill, jointly or severally. Hence, in view of the Section 211 r/w Section 213 of Indian Succession Act, 1925 petitioner becomes the one of the representative of the one of the legatee i.e. Hormazdiar. Therefore, capacity is required to be amended.

3. Ld. Advocate for the petitioner has moved a praecipe dated 09.05.2025 and thereby he submits that he will carryout necessary amendment in the title as well

as body of the petition, wherever requires. Submission is accepted and praecipe is allowed. As amendment is minor in nature and Ld. advocate for the petitioner undertakes to carry out it on behalf of the petitioner, amendment is granted. Ld. Advocate for the petitioner is permitted to amend the petition within two weeks from the date of uploading of this order, if petitions is pending. Re-verification is dispensed with. Ld. advocate for the petitioner to initial the amendment.

4. S. O. to 09.06.2025

09.05.2025

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