

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 4th January, 2025**

CALLED FOR HEARING :

90 TP/4497/2024
(ECHCBM02112262024)
WITH
WILL/1790/2024

Mr. Aditya Shete i/b. Keystone Partnes, Advocate for petitioners

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. Ld. Advocate for petitioner submits that in this matter, deceased died issue-less hence, he may be permitted to carry out necessary corrections in para No. 9 of the petition by adding “Deceased died issue-less”. The said corrections are allowed. Ld. Advocate for petitioner to carry out corrections forthwith. Ld. Advocate for petitioner undertakes that he will upload the corrected version of the petition today itself. The said undertaking is accepted. Re-verification is dispensed with.

2. This petition is for Probate of last Will and Testament of deceased namely Pola Burjor Mistry. The said deceased died at Mumbai on 30.04.2014. 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 - “B”.

3. Ld. Advocate for petitioners submits that petitioner has explained the delay in para No. 11 of the petition as per Rule 382 of the Bombay High Court (Original Side) Rules, 1980.

4. Ld. Advocate for petitioners submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 09.07.2007. The said Will is in English language and copy of the same is annexed2

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to the petition at Exhibit – “C” 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.

5. Ld. Advocate for petitioners submits that deceased had appointed petitioners as Joint Executors under the last Will and Testament of deceased.

6. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Indian Succession Act, 1925. Parents of deceased predeceased the deceased. Deceased was survived by one sister namely Rumba Sabavala. Consent Affidavit of Rumba Sabavala dated 10.05.2024 is filed. The petitioners affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 8 of the petition.

7. Ld. Advocate for petitioners further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - “D” and all the items which are permissible by law and for the purpose of ascertaining the net estate of the deceased, after deducting the debts and liabilities is of Rs.4,31,24,673.2/- and petitioner has paid necessary court fees for the same.

8. 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 Noshir Jehangir Sethna and Sandeep Narayan Pawaskar and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Noshir Jehangir Sethna dated 27.05.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted in para No. 6 of the Affidavit of Attesting Witness that deceased was of sound and disposing mind, memory and understanding and to the best of his belief, made and published the same of her free will and pleasure.3

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9. In the present petition, General Citation was issued on 19.09.2024 and Affidavit of Service of General Citation to that effect is filed on 19.10.2024. 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 subject to upload the corrected version of the petition, having effect throughout the State of Maharashtra.

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**