

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

CALLED FOR HEARING :

91 TP/4753/2024
(AMH20240129954C202400003)
WITH
WILL/1885/2024

Ms. Jyoti Badgujar i/b. Lakdawala and Co., Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Tara Rajkotwala alias Tara Abdulhusen Rajkotwala, alias Tara Abdul Husen Rajkotwala alias Rajkotwala Tara. The said deceased died at New South Wales, Australia on 11.10.2019. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Passport of the said deceased is hereto annexed and marked as Exhibit - “A1”.

2. Ld. Advocate for petitioner submits that petitioner has explained the delay in para No.10 of the petition as per Rule 382 of the Bombay High Court (Original Side) Rules, 1980.

3. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Sydney, Australia on 31.07.2019. 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 is one of the Executors named under the Will of the Deceased abovenamed. The other Executor Mr. Abdulhusen Hassenally Rajkotwala has reserved his right to come in2

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and apply for probate later on.

5. 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 Mohemmedan Law applicable to Sunni Muslim. Parents of deceased predeceased the deceased. Parents and grandparents of deceased predeceased the deceased. Deceased was survived by wife namely Abdulhusen Hassenally Rajkotwala, two daughters namely Sabiha Abdulhusen Rajkotwala and Yasmin Abdulhusen Rajkotwala and son namely Yunus Abdulhusen Rajkotwala who is petitioner herein. Joint Consent Affidavit of Abdulhusen Hassenally Rajkotwala and Sabiha Abdulhusen Rajkotwala dated 23.07.2024 is filed. Consent Affidavit of Yasmin Abdulhusen Rajkotwala dated 20.06.2024 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.

6. Ld. Advocate for petitioner further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - "C" and all the items which are permissible by law to be deducted for the purpose of ascertaining the net estate of the deceased. The assets of deceased after deduction is of Rs.13,58,22,000.00 and petitioner has paid necessary court fees for the same.

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 Peter Vivian Benjafield and Jacqueline Campbell and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Peter Vivian Benjafield dated 20.06.2024 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 Affidavit of Attesting Witness stated that deceased was of sound and disposing mind, memory and understanding and to be best of my

belief made and published the same as of her free will and pleasure.3

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8. It is to be noted that deceased has specifically mentioned in the Will that “I have made this Will in good health and in sound mental condition and under no force, fraud, coercion or influence of any kind and after fully understanding the same and the effect thereof in all aspects”.

9. In the present petition, General Citation was issued on 08.10.2024 and Affidavit of Service of General Citation to that effect is filed on 21.10.2024. Administration Bond dated 22.11.2024 is filed through e-filing. As per submission of Master (Admin) Notice to Collector is issued. Administration Bond dated 22.11.2024 is filed. 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 the State of Maharashtra. Reserving the rights of other Executor Mr. Abdulhusen Hassenally Rajkotwala to come in and apply for Probate later on.

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**