

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 6th January, 2025**

CALLED FOR HEARING :

5 TP/4756/2024
AMH20230025733C202400004
WITH
WILL/1888/2024

Mr. Ravindra Khilare, Advocate for petitioner

- PC :** 1. Perused Petition. Heard Ld. Advocate for petitioner. Pursuant to order dated 21.12.2024, Advocate for petitioner submits that the said doctor is not related to the deceased through his legal heirs.
- 2 This petition is for Probate of last Will and Testament of deceased namely Lata Bhajanlal Jhaveri. The said deceased died at Mumbai on 09.01.2021. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.
3. Ld. Advocate for petitioner submits that petitioner has explained the delay in para No.12 of the petition as per Rule 382 of the Bombay High Court (Original Side) Rules, 1980.
4. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 21.09.2020 and the same was registered before the Joint Sub-Registrar, Andheri No. 4, Mumbai Suburban District. 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.

– 2 –

5. Ld. Advocate for petitioner submits that petitioner is being sole Executor appointed 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 Nos. 9 and 10 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents and husband of deceased predeceased the deceased. Deceased died issue-less. Husband of deceased namely Bhajanlal Jhaveri predeceased the deceased who died on 20.09.1996. Sister of deceased namely Indira Ganeshmal Rohira predeceased the deceased who died on 24.07.1997 and other sister of deceased namely Pushpa Baldevdas Raheja predeceased the deceased who died on 20.06.2018. Brother of deceased namely Mukesh Shewaram Bathija predeceased the deceased who died on 07.01.1996 and other brother namely Kumar Shewaram Bathija predeceased the deceased who died on 06.12.2016. Deceased was survived by two brothers namely Gagi Shewaram Bathija and Lakhmichand Shewaram Bathija. Consent Affidavits of Gagi Shewaram Bathija and Lakhmichand Shewaram Bathija both dated 02.09.2024 are filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para Nos. 9 and 10 of the petition.

7. 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 - "B" 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.35,00,000/- 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 Suresh Tharwani and Samir Makrani and as per the

provisions of Rule 374 of the Bombay High Court (Original Side)3

– 3 –

Rules, 1980, the Affidavits of Suresh Tharwani and Samir Makrani dated 02.09.2024 being both the Attesting Witnesses to the Will are filed and the same are on record. It is to be noted that Dr. D. M. Bathija issued certificate dated 20.09.2020 and stated that deceased is alive, physically and mentally fit. She is in her sound state of mind to sign any legal document / write her will.

It is to be further noted that in para No. 6 of Affidavits of both the Attesting Witnesses stated that deceased was of sound and disposing mind, memory and understanding to the best of his belief and made and published the same of her free Will and pleasure without any pressure from anybody.

9. It is to be noted that deceased has specifically mentioned in the Will that “I make of my free Will and being in the soundness of my mind and body and without any fraud, coercion and undue influence”.

10. 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. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

11. 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.
- 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.

COMPANY REGISTRAR /

06.01.2025

TESTAMENTARY REGISTRAR