

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 11th September, 2025

FOR COMPLIANCE:

75. TP/4784/2024 P. C. : Ms Prajakta Gaonkar i/b Auroma Law d.
(AMH20230016854C Advocate for the Petitioner
202400010)

with
WILL/1899/2024

1) This petition is filed by petitioner, being sole beneficiary under the Will executed by Karuna Chandrakant Kothari, wd/o late Chandrakant Kothari (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Chetpet, Chennai on 21.02.2022. Petitioner, namely Sachin Dinukumar Mehta, filed the copy of death certificate, identity proof of the testator, Will and petitioner's oath.

2) Perused petition. Heard Ld. Advocate for petitioner. Perused documents.

3) No executor has been appointed under the Will. The petitioner is the sole Legatee under the Will. Hence, petition is tenable.

4) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Mumbai on 12.07.2022, in English language. The Will is handed in separately for being filed and kept in a safe place in the Office of the Prothonotary and Senior Master, High Court, Bombay.

5) Ld. Advocate for petitioner submits that Testatrix is survived by legal heirs, whose details are given in the petition's paragraph No. 10 as per the provisions of Hindu Succession Act, 1956.

6) The deceased died as widow and issueless. Her husband, namely Chandrakant Kothari, predeceased to her. Chandrakant's mother Vimlaben also predeceased the deceased. Father of Chandrakant married thrice, with Jasuben,

Chandraben and Vimlaben. It is submitted that, Chandrakant's Kothari's half sisters' namely Sushilaben(daughter of Jasuben), Ilaben and Umaben (Daughters of Chandraben) also died. Sushilaben died leaving her son Himanshu Mehata(Sr. No.9), Ajya Mehata. Ajay Mehata died leaving his daughter-Sonal Mehta(Sr. No.10) and son-Swapnil Mehta (Sr. No. 11). Chandraben died leaving her two daughters, Ilaben and Umaben. Ilaben died leaving behind her son-Samir Shah(Sr.12) and Son-Mehul Shah(Sr.13). Umaben died leaving behind her daughter-Hemal(Sr.14) and Shefali(Sr. 15). Family tree is annexed with the order for reference, which was referred in the original order dated 08.09.2025.

7) Ld. advocate for the petitioner submitted that persons whose names are mentioned at serial no. 9 onwards are legal heirs of the deceased's husband, as per Section 15(1) (b) r/w Rule 3 to Section 16 of the Hindu Succession Act, 1956. In this regard, Sec. 18 of the Hindu Succession Act, 1956 will be applicable. In present case, the Chandrakant Kothari died issue less but leaving his half-blood sisters children (i.e. nephews and nieces), the persons whose names are mentioned at Sr. No. 09 to 15 would be have preferential right of inheritance to the properties left by the deceased over the heirs of the deceased father falling under sec. 15(1)(d) and (e) of the Hindu Succession Act, 1956.

8) In this regard, the Hon'ble Bombay High Court in case of ***Waman Govind Shindore v. Gopal Baburao Chakradeo***, 1983 SCC OnLine Bom 304 : 1984 Mah LJ 1 : (1984) 1 Bom CR 530 : AIR 1984 Bom 208 : (1983) 85 Bom LR 611 at page 2) has laid down the law. Hence, the nephews and niece of the half blood sisters would have an inheritance being Class-II, Entry (iv) legal heirs of the deceased vide Sec. 9 of the Hindu Succession Act, 1956. hence, these legal heirs excludes the persons, whose names are mentioned at Sr. no. 1 to 8 in the legal heirs'

table.

9) Citation to non-consenting legal heirs of the deceased, namely Himanshu Mehta, Sonal Mehta, Swapnil Mehta, Samir Shah, Mehul Shah, Hemal Mehta and Shefali Mehta has been issued. Citation issued to these legal heirs are sent through post at their address, mentioned in the petition. Bailiff of this Court has filed an affidavit (affirmed on 08.08.2025) stating that these persons have received the citation on 19.07.2025 by post. However, non-consenting legal heirs did not resist the petition.

10) Citation was issued, which has been duly affixed on the conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court (O.S.) Rules, 1980 (for short "BHC Rules") and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is treated as uncontested one.

11) The petitioner has filed the affidavit of Suresh Kumar Ramalingam & Venkatraghavan Varadharjan, attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. They deposed that deceased signed the Testament in their presence. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

12) Properties mentioned in the schedule-I of the petition are referred in the Will.

13) Petitioner has executed the administration Bond in the prescribed format. Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration with Will annexed to the petitioner, as per the Rules, having effect throughout the State of Maharashtra.
- 3) Before issuance of Letters of Administration with Will, the office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

11th September, 2025

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