

**BEFORE : MRS. R.V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 2nd January 2025**

Sr. No. – 7-TP/4785/2024 with WILL/1900/2024
(ECHCBM02150922024)

Mr. Ashish Bhandari, Advocate for the petitioner.

For Hearing :

1. Perused the Petition. Heard Advocate for petitioner. The present petition is filed for Probate and last will and Testament of deceased viz. Gurubux Singh Malhotra alias Gurbux Singh Malhotra alias Gurbux Singh Malhotra who died at Mumbai on 04.12.2003. Copy of death certificate is annexed at Exhibit -'A' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "B" to the petition. Advocate for the petitioner submits that identification proof of the deceased is annexed as Identity Card of Indian Oil Corporation Ltd of the deceased and request that the same may be considered. The said request is accepted and identify card of the deceased is accepted as identification proof of the deceased at Exhibit "B".

2. Advocate for the petitioner submits that the said deceased, at the time of his death, was governed by the Hindu Succession Act, 1956 and having fixed place of abode at Shere Punjab Society, Mahakali Caves Road, Andheri (East), Mumbai - 400093 and left property in the state of Maharashtra.

3. That the deceased has left a writing, which is his last Will and Testament dated 11.10.2002. The said Last Will and Testament dated 11.10.2002. The original of the said last Will and Testament is marked as Exhibit 'A' and 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. The said Will is in English language and copy of the same is annexed to the petition at Exhibit "C" to the petition.

4. Advocate for the petitioner submits that the Petitioner is the Sole Executor namely Raminderpal Singh Gulati in the said Last Will and has filed for Probate in his capacity as the Sole Executor of the said Last Will.

5. Advocate for the petitioner submits that the said Last Will was duly executed by the Deceased at his residence at Sher-E-Punjab Society, Plot No. 247, Mahakali Caves Road, Andheri (East), Mumbai- 400093 in the presence of Mr. Sumit Salvi and Mr. Jayendra Gholap on 11.10.2002. The said Will was registered with Sub-Registrar of Assurance, Bandra, Mumbai on the same date i.e. on 11.10.2002 by the Deceased himself. The said will is annexed at page no. 16 to 24.

6. Advocate for the petitioner submits that the properties which were left behind by the deceased and which are specified in the Schedule no. I which is annexed to the

petition as Exhibit “D” to the petition 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 deducting the items in Schedule I annexed to the petition is of Rs. 9,08,09,070/- and the petitioner has paid necessary requisite court fees for the same.

7. It has been found that the said will is in English language and will is duly executed and signed by the testor/deceased i.e. Gurubux Singh Malhotra alias Gurbux Singh Malhotra alias Gurbax Singh Malhotra and two witnesses viz. Sumit Dhondu Salvi who is residing at at 163/A-19, Adhar Sheela Co-operative Housing Society Ltd., Gorai - 11, Borivali (West), Mumbai – 400092 and Jayendra Gholap who is residing at 163/A-15, Adhar Sheela Co-operative Housing Society Ltd., Gorai - 11, Borivali (West), Mumbai – 400092 It is to be noted that on the said will Dr. R. Mohan had made statement that he examined the deceased and found him to be in physically and mentally fit while executing the said will.

8. As per requirement of Rule No. 374 of High Court Original Side Rule 1980 and Indian Succession Act, 1925, the affidavit of one of the attesting witness viz. Sumit Dhondu Salvi is annexed to the petition at page no. 28 to 35 to the petition.

9. Advocate for the petitioner submits that both the parents of the deceased predeceased the deceased. The widow of the deceased - Ranjeet Kaur Malhotra, expired on 03.10.2009. The copy of the death certificate is annexed as Exhibit "E". The deceased left behind him his legal heirs viz. (1) Kamal Deep Singh Malhotra (2) Rajpal Gurubax Malhotra and (3) Tejinder Pal Singh Malhotra, all the sons had given their consent for issuance of probate in favour of the petitioner. The Consent Affidavits are annexed to page no. 36 to 44.

10. Advocate for the petitioner submits that there is delay of filing this petition be condoned as the concerned authorities asked for legal representation to transfer the property in favour of the Legal heirs. In view thereof, delay is condoned.

11. In the present petition General citation was issued on **09.10.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **19.12.2024** for proving General citation. Notice to Collector is issued. After perusal of the petition, will and submission made by the Advocate for the petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

- 1) Petition is allowed and the probate be granted to the petitioner herein having effect throughout in the State of Maharashtra.
- 2) Before issuance of the probate, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**