

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

Sr. No. – 10-TP/5033/2024 with WILL/2000/2024
(AMH20230042892C202400035)

Mr. Darshan Mehta a/w. Megha Sanghavi i/b. Dhruve Liladhar & Co. , 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. of Daya Nalinkumar Patel, who died at Mumbai on 16.07.2018. 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.

2. Advocate for the petitioner submits that the said deceased, at the time of her death, was governed by the Hindu Succession Act, 1956 and having fixed place of abode at 10, Maitreyi, 65 / Zed (4), Linking Road, Santacruz (W) Greater Murnbai, Mumbai Suburban, Maharashtra – 400054 and/or left property within Greater Bombay and in the State of Maharashtra and throughout India.

3. That the deceased has left a writing, which is her last Will and Testament dated 03.04.2018. The said Last Will and Testament dated 03.04.2018. The original of the said

last Will and Testament is marked as Exhibit 'C' 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 BIJAL NALINKUMAR PATEL 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 Daya Nalinkumar Patel at Mumbai in the presence of Mr. Hiren Chandrakant Ajmera and Kiran Chandrakant Sanghavi on 03.04.2018. The said Will was notarised on the same date i.e. on 20.08.2024 by the sole executor. The said will is annexed as Exhibit "C" to the petition.

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 the petitioner has also annexed Schedule no. II 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 II annexed to the petition is of Rs. 64,26,42,768.08/- and the

petitioner has paid necessary requisite court fees for the same.

7. Advocate for the petitioner submits that the said will is in English language and will is duly executed and signed by the testor/deceased i.e. Daya Nalinkumar Patel and two witnesses viz. (1) Hiren Chandrakant Ajmera who is residing at A-104 Gokul Divine, S. V. Road Irla, Vile Parle (West), Mumbai – 400056 and (2) Kiran Chandrakant Sanghavi who is residing at 83, Shree Building, Juhu & S. V. Road, Santacruz (West), Mumbai – 400054. It is to be noted that the deceased made this Will out of her own free will, in her good health and sound mind and after understanding the same in all aspects and this will be effective after her death.

8. Advocate for the petitioner submits that 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. Hiren Chandrakant Ajmera stated that the deceased so subscribed her signature to the Will on 03.04.2018 was to the best of her belief of sound and disposing mind, memory and understanding and to the best of her belief executed the Will out of her free will and pleasure. The said Affidavit is annexed to the petition at page no. 31 to 34 to the petition.

9. Advocate for the petitioner submits that both the parents of the deceased predeceased the deceased. The

husband of the deceased predeceased the deceased. The copy of the death certificate is annexed as Exhibit "F". The deceased left behind her legal heir viz. Bijal Nalinkumar Patel.

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 the General citation was issued on **24.10.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **18.11.2024** 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 and throughout India.
- 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**