

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 16th April, 2025

FOR COMPLIANCE:

80. TP/5063/2024 P. C. : Shri. Manoj Mane Ld. Advocate for the Petitioner
(AMH20230017959C
202400005)
with
WILL/2014/2024

1) This petition is filed by petitioner, being the beneficiaries under the Will executed by Mahananda Vitthal Gawade alias Mahananda Vithal Gawade alias Mahananda Vital Gawade (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Gawadewadi, Vengurla, on 08/11/2022. Petitioners, namely (1) Suresh Vitthal Gawade, (2) Subhash Vitthal Gawade, filed the copy of death certificate, identity proof of the testator, Will along with its English translation, petitioner's oath.

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

3) No executor has been appointed under the Will. The petitioners are the Beneficiaries 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 10.05.2012 and registered on 11.05.2012, in Marathi language. In view of the Order of the Hon'ble Court passed in the TP No. 1263/2023, the Ld. Advocate for the petitioner has filed an affidavit stating that the translation of the Will is true translation as per the contents of the Original Will. The original 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 was survived by legal heirs, as per the provisions of Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased. Legal heirs of the testator have consented to the petition and thereby waived the service of Citation.

6) 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.

7) The petitioner has filed the affidavit of Sandra Armand Braganza, one of Attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. She deposed that she was present and deceased signed the Testament in presence of her and another witness, after going through its contents. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will. According to her all additions and alteration in a Will were existed at the time of execution and before signing the Will. Hence, there is sufficient compliance of the Rule 383 of the Rules.

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

9) Petitioners have 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, upon satisfaction that the administration Bond is properly executed, as per the Rules, throughout 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.

16th April, 2025

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