

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 14th February, 2025**

CALLED FOR HEARING :

63 TP/5097/2024
WITH
WILL/2033/2024

Ms. Shweta Singh, Advocate for petitioner

- PC :** 1. Perused Petition. Heard Ld. Advocate for petitioners. This matter is taken out of turn as she is having medical difficulties. This petition is for Probate of last Will and Testament of deceased namely Chandan Murlidhar Kotak. The said deceased died at Mumbai on 31.01.2024. 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”.
2. Ld. Advocate for petitioner submits that deceased left behind his last Will and Testament which was duly executed and registered before the Joint Sub-Registrar of Assurances, Kurla-4 at Mumbai on 09.05.2023. 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.
3. Ld. Advocate for petitioners submits that petitioner is being sole Executor appointed under the last Will and Testament of deceased.
4. Ld. Advocate for petitioner submits that deceased left behind his legal heirs shown in the paragraph No. 7 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents and wife of deceased predeceased the deceased. Deceased died issue-less. Deceased was survived by four brothers namely namely Sham Murlidhar Kotak who is petitioner herein,2

Prakash Murlidhar Kotak, Latesh Murlidhar Kotak and Kishore Murlidhar Kotak. Deceased had no sister and left no other brother. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.7 of the petition.

Ld. Advocate for petitioner submits that consent Affidavits of Prakash Murlidhar Kotak dated 19.01.2025, Latesh Murlidhar Kotak dated 20.01.2025 and Kishore Murlidhar Kotak dated 19.01.2025 are filed in favour of the petitioner namely Sham Murlidhar Kotak. Consent Affidavits are filed through on-line separately.

5. Ld. Advocate for petitioner further submits that as regards the properties mentioned in the Will and not shown in the schedule, description thereof is given in para No. 6 of the petition. Deceased left behind him the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities are mentioned in the petition and petitioner has paid the court fees accordingly.

6. 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 Ajay Giridhar Karna and Pooja Nimit Motwani and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavits of Ajay Giridhar Karna and Pooja Nimit Motwani dated 06.07.2024 being the Attesting Witnesses to the Will are filed and the same are on record. It is to be noted that Dr. Shahini Shaikh from Olive Multispeciality Advance Critical Care Center has issued certificate and mentioned that he is physically and mentally fit for signing on the Will.

It is further noted in para No. 5 of the Attesting Witnesses that he was of sound and disposing mind, memory and understanding and to the best of his belief made and published the same of his free will and pleasure.3

7. It is to be noted that deceased has specifically mentioned in para No. 5 of the Will that “I am in sound and disposing state of mind and when I am fully capable of disposing of my assets according to my own intentions and without any undue influence, force or coercion from any other third party”.

8. In the present petition, General Citation was issued on 13.11.2024 and Affidavit of Service of General Citation to that effect is filed on 16.12.2024. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

9. 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.

14.02.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**