

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 4th January, 2025**

CALLED FOR HEARING :

98 TP/5136/2024
(AMH20230041340C202400016)
WITH
WILL/2053/2024

Mr. Sameer Ramesh Logade, Advocate for petitioner

- PC :** 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last Will and Testament of deceased namely Lalitabeh Mahsukhlal (Balubhai) Mehta alias Lalitaben Mansukhlal Mehta alias Lalita Mansukhlal Mehta. The said deceased died at Mumbai on 13.06.2004. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Passport of the said deceased is hereto annexed and marked as Exhibit - “A1”.
2. Ld. Advocate for petitioner submits that petitioner has explained the delay in para No.10 of the petition as per Rule 382 of the Bombay High Court (Original Side) Rules, 1980.
3. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 15.01.2001. 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.
4. Ld. Advocate for petitioner submits that petitioner is being sole Executor appointed under the last Will and Testament of deceased.

– 2 –

5. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Parents of deceased predeceased the deceased. Husband of deceased namely Balubhai Mohanlal Mehta alias Mansukhlal Mehta alias Mansukhlal Mehta predeceased the deceased who died on 12.03.1990. The son of deceased namely Hasmukh Mansukhlal Mehta died on 06.05.2012, leaving behind his wife namely Nirmala Hasmukh Mehta and son namely Devang Kumar Mehta alias Devang Hasmukh Mehta. Deceased was survived by daughter-in-law namely Nirmala Hasmukhlal Mehta, grandson namely Devang Kumar Mehta alias Devang Hasmukhlal Mehta, granddaughter namely Shilpa Atul Jogani, daughter namely Bhanu M. Mehta, married daughter namely Kokila Jitendra Mehta, daughter namely Saroj Mansukhlal Mehta, married daughter namely Bharati Pankaj Goda, married daughter namely Rekha Mahesh Dalal, son namely Nilesh Mansukhlal Mehta. Consent Affidavits of Nirmala Hasmukhlal Mehta dated 14.08.2024, Devang Hasmukhlal Mehta dated 19.08.2024, Shilpa Atul Jogani dated 16.08.2024, Bhanu M. Mehta dated 21.08.2024, Kokila Jitendra Mehta dated 16.08.2024, Saroj Mansukhlal Mehta dated 14.08.2024, Bharati Pankaj Goda dated 20.08.2024, Rekha Mahesh Dalal dated 14.08.2024, Nilesh Mansukhlal Mehta dated 14.08.2024 are filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 8 of the petition.

6. Ld. Advocate for petitioner further submits that properties which are left behind by deceased and which are specified in Schedule I annexed to the petition as Exhibit - “E” 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 deduction is of Rs.1,30,00,000/- and petitioner has paid necessary court fees for the same.

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– 3 –

7. 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 Kiran J. Mehta and Paresh Javerchand Lodaya and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Paresh Javerchand Lodaya dated 30.12.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. In the said Affidavit, it has been observed that that the Will was drawn on the instruction of the deceased and the said Will was read over, interpreted and explained to the deceased in Gujarati language and after confirming the contents of the Will and Testator (deceased) set and subscribe her signature at the foot of the testamentary paper in Gujarati language in presence of both the Attesting Witnesses and in presence of the Testator all being present at the same time at the residence of the deceased. It is further stated this Affidavit is filed in compliance of order dated 19.12.2024. Ld. Advocate for petitioner submits that the said Affidavit is filed through e-filing but the same cannot be view hence, he has tendered the original Affidavit across the bar. It is to be noted in para No. 7 of the Affidavit of Attesting Witness that she was of sound and disposing mind memory and understanding and to the best of his knowledge and belief, made and published the same of her free will and pleasure.

8. It is to be noted that deceased has specifically mentioned in para No. 6 of the Will that “I have made this Will out of my free will and while I am in sound health and in good understanding”.

9. 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 27.11.2024. As per submission of Master (Admin) Notice to Collector is issued. All other legal formalities are complied with.

.....4

– 4 –

10. 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.

04.01.2025

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**