

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

CALLED FOR HEARING :

99 TP/5153/2024
(AMH20230019553C202400043)
WITH
WILL/2063/2024

Mr. Karan Parmar i/b. Nankani Ishwar Jagdish, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioners. This petition is for Probate of last certified copy of Will and Codicil and Testament of deceased namely Rohinton Rustom Mogul alias Capt. Rohinton Rustom Mogul. The said deceased died at Mumbai on 02.03.2024. 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 - “B”.

2. Ld. Advocate for petitioner submits that deceased left behind his last Will and Testament which was duly executed at Mumbai on 09.02.2015 and the same was duly registered with the office of Joint Sub-Registrar, Mumbai City-1 on 09.02.2015 bearing registration No. BBI-1684-2015. The Original of said Will was misplaced by the deceased during his lifetime. The said certified copy of the Will is in English language and copy of the same is annexed to the petition at Exhibit – “C” and certified copy 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.

Ld. Advocate for petitioner further submits that deceased has also executed a Codicil dated 29th June 2017 to the said Will. The said Codicil is registered with the Office of the Joint Sub-Registrar, Mumbai City-1 on 30th June, 2017 bearing registration No. BBI-3230-2017.

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The said original Codicil is handed in separately for being filed and kept in safe place in office of Prothonotary and Senior Master. Copy of the said Codicil dated 29th June 2017 is annexed to the petition as Exhibit "D".

3. Ld. Advocate for petitioners submits that petitioner is one of the Executors appointed under the last Will and Testament of deceased.

Ld. Advocate for petitioner submits that petitioner vide his email dated 22nd August, 2024 made a joint request to the abovenamed Executor namely Ratansha B. Vakil to join him in applying for the probate of the said Will and the Codicil being the last Will, Codicil and Testament of deceased. The Petitioner also requested the said executor namely Ratansha B. Vakil to give his consent /no objection to the Petitioner to apply for probate if he did not wish to join the Petitioner to apply for probate of the Will and Codicil. Copy of the said Email dated 22nd August, 2024 is annexed to the petition as Exhibit "E".

Ld. Advocate for petitioner further submits that executor namely Ratansha B. Vakil has by his email dated 22nd August, 2024 and Affidavit dated 23rd August 2024 expressed his inability to join the Petitioner in applying for probate of the Will and the Codicil as stated in the email and the Affidavit, but has granted his consent / no objection to the Petitioner to apply for the probate. Hereto annexed and marked as Exhibits "F" and "G" is copy of email dated 22nd August, 2024 alongwith the attachment thereto and Affidavit dated 23rd August, 2024.

4. Ld. Advocate for petitioner submits that deceased left behind his legal heirs shown in the paragraph No. 15 of the petition, as per the provisions of the Indian Succession Act, 1925. Parents of deceased predeceased the deceased. Wife of deceased namely Manjeet Mogul predeceased the deceased who died in the year 1987. Deceased was survived by daughter namely Shyra

Rohinton Mogul and Zubin Rohinton Mogul.

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Consent Affidavit of Shyra Rohinton Mogul dated 01.10.2024 is filed. Consent Affidavit of Zubin Rohinton Mogul dated 14.08.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No.15 of the petition.

5. 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 - “H” and all the items which are permissible by law and and Schedule II 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.3,45,20,700/- and petitioner has paid necessary court fees for the same.

6. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – “C” is duly executed and witnessed by two attesting Witnesses namely Hormaz Diyaar Vakil and Ms. N. Vora and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Hormaz Diyaar Vakil dated 02.09.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that Dr. Maya Balani issued certificate dated 09.02.2015 and stated that deceased is physically and mentally fit to make his Will and I certify that he is of sound min, memory and understanding. It is to be further noted at the time of Codicil that Dr. Maya Balani issued certificate dated 29.06.2017 stated that he is of sound mind, good memory and proper understanding.

7. It is to be noted that deceased has specifically mentioned in para No. 8 of the Will that “Although I am 73 years old, by God’s grace I am in excellent health both physically and mentally and I have made this Will after giving full thought of the dispositions aforesaid and without any duress or fraud or being

influenced by anyone”.

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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 27.11.2024. 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 India as per other Executor Mr. Ratansha B. Vakil has renounced his rights to execute the said Will and to obtain Probate.

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**