

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO. 5503 OF 2024

Khorshed Fali Chothia alias Khorshed F. Chothia ...Deceased

Feroza Fali Fitch ...Petitioner

Mr. Vijay Nene for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 13TH FEBRUARY, 2025

P.C.-

1. The office has raised the following requisition:

"1. Perused Petition. Petitioner to state how petition is maintainable when Will is executed by the Testator. Hence, petitioner to take steps."

2. Learned Counsel for the Petitioner points out that the captioned Petition for Letters of Administration (with a Will annexed) has been filed by way of a Petition for Letters of Administration and not probate since all the executors named under the said Will have passed away. He additionally submits that even the attesting witnesses named under the said Will have passed away. He points out that the Petitioner is the daughter of the deceased and a beneficiary under the said Will and it is thus in this capacity that the Petition is taken out for Letters of

Administration and not probate. Learned Counsel then invites my attention to an order dated 22nd December, 2023 passed in the case of ***Ramaswamy Ananthakrishnan and Ananthakrishnan Ramaswamy alias A. Ramaswamy*** (Testamentary Petition No.3584 of 2023) and points out that this Court had in virtually identical circumstances dispensed with the similar requisition raised by the department.

3. Having due regard to the submissions made in the facts of the present case and noting that the executors named under the said Will of the deceased have passed away and the Petition is presented by the daughter of the deceased, who is also a beneficiary under the said Will, the office requisition is accordingly dispensed with. Office is directed to proceed with the matter subject to all other compliances are made.

(ARIF S. DOCTOR, J.)