

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 13th June, 2025

FOR COMPLIANCE:

101.TP/315/2025 P.C.: **Mr. Jayant Wani i/b. Lakdawala & Co., Ld. Advocate for**
with **the Petitioner.**
WILL/111/2025

1) This petition is filed by petitioner, being representative of the sole beneficiary, namely Anita Manmohan Das, under the Will executed by Man Mohan Das son of Moti Lal Das alias Man Mohan Moti Lal Das (herein after the same is referred to as "Testator"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Mumbai on 05-01-2022. Petitioner, namely Uzma Abid Porbanderwalla, filed the copy of death certificate, identity proof of the testator, Will, petitioner's oath.

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

3) The petitioner has explained the delay vide Rule 382 of the Bombay High Court (Original Side) Rule, 1980(for short "Rules").

4) The executor, namely Anita Manmohan Das is reported to have been died on 06.10.2023 and her death certificate has been filed on the record.

5) The petitioner is the representative of the sole legatee, namely Anita Das, under the Will. Said Anita Das executed a Will, dated 22-6-2022. The petitioner was executor of the said Will and accordingly she had filed a Testamentary Petition, having TP No. 1650 of 2024. The grant has been issued on 30.07.2024(Ex.E) of the petition. Hence, vide Sec. 211 read with Sec. 213 of the IS Act the petitioner acquires the capacity of the representative of Said Anita. petition is tenable as per Sec. 233 of the IS Act in view of The probate obtained by the petitioner in respect of the Will

6) Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mumbai on 10.10.2014, in English language. 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.

7) Ld. Advocate for petitioner submits that testator is survived by legal heirs, whose details are given in the petition, as per the provisions of Muslim Personal laws.

8) Ld. advocate for the petitioner states that no heirs from the deceased are available. Hence, in view of the theory of the return, the widow would be the legal heir of the deceased for his entire property. Hence, after death of the said Widow(namely Anita), her legal heirs would be persons, claiming an inheritance through the deceased Anita. He has relied upon the decision of the Hon'ble Oudh High Court in case of ABDUL HAMID KHAN v/s PEARE MIRZA AND ANOTHER [1935 OUDH WEEKLY NOTES 48].

9) The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition. Legal heirs of the testator have consented to the petition and thereby waived the service of Citation.

10) 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.

11) The petitioner has filed the affidavit of SUNIL SHANTILAL GOKAL, one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased signed the Testament in his presence as well as presence of 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 him 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.

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

13) Petitioner states that under the Will, the properties are bequeathed to Anita, a widow of the deceased. Said Anita died testate. She had executed a Will dated 22.06.2022 and appointed a petitioner as her executrix and beneficiary. Accordingly, Probate has been granted in TP No.1650 of 2024 to the petitioner. Its copy is annexed to the petition, at Ex. E. Hence, as per Sec. 211 and 213 of the IS Act, the petitioner being the executor, under the Will executed by Anita, is her representative.

14) Petitioner has 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 the 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.

13th June, 2025

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