

Before: Shri. P. A. Jagdale,
 Officer on Special Duty,
 With the Testamentary Department
 Date: 13th February, 2026

FOR COMPLIANCE:

101. TP/4431/2025	)	
(AMH20240128752C202500012)	)	Ms. Himanshi Choudhary i/b I C Legal Ld.
with	)	Advocate for the Petitioner
WILL/1637/2025	)	

P.C.:

- 1) Petitioners, namely (1) Pradeep Ramnath Mhatre and (2) Darpan Ramnath Mhatre, filed this petition for grant of Letters of Administration with Will Annexed, being the legatees under the Will executed by Nayantara Shamrao Paralkar (herein after the same is referred to as "Testatrix"), for the grant of a Letters of Administration with Will annexed. The Said Testator said to have died at Mumbai on 16.06.2024.
- 2) Perused petition. Heard Ld. Advocate for the petitioner. Perused documents. Petitioners, filed the copy of death certificate, an identity proof of the testator, Will and petitioner's oath.
- 3) No executor has been appointed under the Will. The petitioners are the Legatees under the Will. Hence, the petition is tenable.
- 4) Petitioners stated that the deceased left behind her last Will and Testament, which was duly executed at Mumbai on 16.06.2020, in Marathi language. In view of the Order of the Hon'ble Court passed in the TP No. 1263/2023, the Ld. The advocate for the petitioners has filed an affidavit stating that the translation of the Will is a true translation as per the contents of the Original Will. The Will is handed over separately for being filed and kept in a safe place in the Office of the Prothonotary and Senior Master, High Court, Bombay.
- 5) Ld. Advocate for the petitioners submit that the Testatrix is died as spinster. Her parents were predeceased to her. Testatrix's two brothers, namely Laxmikant Shamrao Paralkar and Pramod Shamrao Paralkar, predeceased to the deceased and they were bachelor at the time of their deaths. Copies of Death certificates are at Ex. E and F. The petitioners specifically stated that there are no heirs of father falling under Class-II, even agnates and Cognates of the Father of the deceased. Hence, as per Sec. 15(1)(e) read with Sec. 15(1)(d) of HS Act, the deceased's mother's father's heirs are entitled to claim an inheritance to the property of the deceased vide Sec. 8 of the HS Act. Deceased's mother had one brother namely Ramnath Mhatre, who predeceased her on 20.08.1992 and survived by two sons. Ramnath's wife predeceased to him. Hence, petitioners are deceased's mother's father's heir as per Rule 3 of

Section 16 read with Sec. 8 of the HS Act (i.e. Sons of predeceased son of the father of the deceased's mother). Hence, petitioners claimed to be legal heirs, whose details are given in the petition's paragraph No. 08, as per the provisions of the Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased, except as mentioned in the petition. Family tree provided by the Ld. Advocate is kept along with this order.

6) As per the provisions of Sec. 15(2) of HS Act, if the property is received from the female's father or mother, then property would be inherited by the Heirs of father and not as per Sec. 15(1) of the HS Act. As the legal heirs are falling heirs of mother's Father, they will not inherit the property of the deceased as per Sec. 15(2) of the HS Act.

7) However, Ld advocate for the petitioner is relied upon the decision of the Hon'ble Supreme Court in cases of **State of Punjab VS. Balwant Singh and Others [1992 Supp (3) Supreme Court Cases 108]** and in case of **Arunachala Gounder Vs. Ponnusamy And Others [(2022) 11 Supreme Court Cases 520]**. In case of **Arunachala Gounder (cited supra)** the Hon'ble Supreme Court has relied upon the above cited case.

8) In case of **Balwant Singh (Cited Supra)**, the issue was raised in respect of provision of the construction of Section 15 of HS Act. In the said Case, Smt Mahan Kaur, wife of Jaimal Singh inherited properties from her husband. Said Mahan Kaur died intestate. Revenue authority as per Sec.29 of HS Act, sanctioned mutation in favour of the State, as there was no heir to succeed as per the provisions of HS Act. Some of the properties were mortgaged by the said Mahan Kaur, in her life time, hence, her brother's grand-son, namely Balwant Singh, claiming to be a legal heir of Mahan Kaur brought the suit out of which the present appeal arises. The suit was for possession of the property of the deceased and also for a declaration decree that he was entitled to redeem the mortgaged property from defendants 2 to 6. The suit was resisted by the State on the ground that the intestate has left behind no heir to succeed and the mutation effected in favour of the State was valid. Defendants 2 to 6 contended that the right to redeem the mortgage has been extinguished and they have become the owners of the property by being in possession for more than sixty years.

9) The Hon'ble Court laid down that Provisions of Sec. 15(2) of HS Act, which is reproduced as under, -

“7. Sub-section (1) of Section 15 groups the heirs of a female intestate into five categories and they are specified under clauses (a) to (e). As per Section 16 Rule 1 those in one clause shall be preferred to those in the succeeding clauses and those included in the same clause shall take simultaneously. Sub-section (2) of Section 15 begins with a non-obstante clause providing that the order of succession is

not that prescribed under sub-section (1) of Section 15. It carves out two exceptions to the general order of succession provided under sub-section (1). The first exception relates to the property inherited by a female Hindu from her father or mother. That property shall devolve, in the absence of any son or daughter of the deceased (including the children of the pre-deceased son or daughter), not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father. The second exception is in relation to the property inherited by a female Hindu from her husband or from her father-in-law. That property shall devolve, in the absence of any son or daughter of the deceased (including the children of the pre-deceased son or daughter) not upon the other heirs referred to under sub-section (1) in the order specified thereunder but upon the heirs of the husband.”

10) The Hon’ble Supreme Court has relied upon the decision in the case of ***Bajaya v. Gopikabai*, (1978) 2 SCC 542: 1978 SCC OnLine SC 117**, with reference of Rule 3 to Sec. 16 of the HS Act. It is laid down that, -

“14. Sub-section (2) of Section 15, in our opinion, was intended only to change the order of succession specified under sub-section (1) and not to eliminate the other classes of heirs. This view finds support from the recommendations of the Joint Committee of two Houses of Parliament which went into the question of the Hindu Succession Bill. The Hindu Succession Bill, 1954 as originally introduced in the Rajya Sabha did not contain any clause corresponding to sub-section (2) of Section 15. It came to be incorporated on the recommendations of the Joint Committee of the two Houses of Parliament. The reason given by the Joint Committee is found in clause (17) of the Bill which reads as follows:

“While revising the order of succession among the heirs to a Hindu female, the Joint Committee have provided that properties inherited by her from her father reverts to the family of the father in the absence of issue and similarly property inherited from her husband or father-in-law reverts to the heirs of the husband in the absence of issue. In the opinion of the Joint Committee such a provision would prevent properties passing into the hands of persons to whom justice would demand they should not pass.”

15. *The report of the Joint Committee which was accepted by Parliament indicates that sub-section (2) of Section 15 was intended to revise the order of succession among the heirs to a Hindu female and to prevent the properties from passing into the hands of persons*

to whom justice would demand that they should not pass. That means the property should go in the first instance to the heirs of the husband or to the source from where it came.

16. *In support of the contrary submission, attention was drawn to a passage from Hindu Law by S.V. Gupte in which it is stated that*

“the heirs of the husband will take where the property was inherited from the husband or from the father-in-law. The object is to eliminate the father and the mother, the heirs of the father, and the heirs of the mother altogether from succession where the property inherited was from the husband or the father-in-law and the deceased has left no son or daughter or any grandchild. The effect of the clause is not only to eliminate the three classes of the heirs, being those mentioned in clauses (c), (d) and (e) to sub-section (1), but to change the order of succession.” (1981 ed. Vol. 2, p. 522).

We however, find it difficult to share this view. It does not get support from the terms of sub-section (2) of Section 15. Sub-section (2)(b) emphasises that the property of the intestate shall not devolve upon the heirs referred to in sub-section (1) in the order specified thereunder but upon heirs of the husband. The object seems to be not to eliminate the other heirs under sub-section (1) and not to exclude them from inheritance altogether. There is no justice in such a construction of Section 15. The Parliament could not have intended that result.”

11) The facts of the case of Balwant Sing (cited Supra) are similar to present petition. The petitioner states that there are no heirs falling under sec. 15(1) (a) to (d) of HS Act. Hence, the legal heirs, which are mentioned in the legal heirs table falling under Sec. 15(1)(e) of HS Act.

12) Citation to all Concern was issued and same 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.

13) The petitioners have filed the affidavit of Uday Umakant Paralkar 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 and the testatrix was in sound state of mind at the time of execution of the Will. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

14) Properties mentioned in the schedule-I of the petition are referred in the Will. Petitioners have 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, as per the Rules, having effect 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 February, 2026

**Officer on Special Duty,
with Testamentary Department**