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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
INTERIM APPLICATION (L) NO. 11375 OF 2026
IN
TESTAMENTARY PETITION NO. 3334 OF 2025**

Hemlata Dattaram Chalke**...Applicant/Petitioner****Sushilkumar Kesarinath Sawe****...Deceased**

Mr. Yashodhan V. Divekar with Ms. Aishwarya Shetty i/b Divekar & Co.
for the Applicant.

**CORAM : ABHAY AHUJA, J.
DATE : 3rd SEPTEMBER, 2026**

ORAL ORDER :

1. This Interim Application seeks dispensation of the bond with one surety.
2. When the matter is called out, Mr. Divekar, learned Counsel appearing for the Petitioner / Applicant submits that under Rule 420(a) of the High Court (Original Side) Rules, 1980 (the "High Court OS Rules") the person to whom a grant is made, is required to give a bond in Form No. 118 with one surety and the bond shall, unless the Judge in Chambers otherwise directs, be given for the gross value of the estate. Mr. Divekar further submits that under Rule 422 (b) of the High Court OS Rules, the surety to the bond is required to justify the whole estate less the share of the grantee and of such sharers as shall consent in writing thereto.

3. Mr. Divekar submits that while the Applicant/Petitioner has no objection in giving the administration bond in Form 118, however, the issue is with the bond by the surety in respect whereof a waiver is being sought is necessary in the facts of this case.

4. Mr. Divekar submits that in the facts of this case, the Petitioner and all the legal heirs are family members and all the legal heirs have given their no objections to the filing of the Petition for Letters of Administration and also waived service of citation and also have stated in their consent affidavits that the Letters of Administration be granted to the Petitioner without asking for any justifying surety in respect of their respective shares. That, therefore, in view of Rule 422 (b) of the High Court OS Rules, it would not be necessary to have a surety to give a bond as all the heirs of the deceased have given no objection.

5. Mr. Divekar submits that under Rule 422(c) of the High Court OS Rules, this Court has power to dispense with the justification of the surety and that in the facts of this case as above, this Court may dispense with the justification of the surety.

6. I have heard Mr. Divekar, learned Counsel for the Petitioner.

7. Under Rule 420 of the High Court OS Rules, the person to whom the grant is made shall give a bond in Form No. 118 with one surety and the bond shall unless this Court otherwise directs, be for the gross

value of the estate.

8. Under Rule 422 (b) of the High Court OS Rules, when the person to whom the grant of Letters of Administration or Succession Certificate is made, is entitled to only a portion of the estate, the surety to the bond shall justify for the whole estate less the share of the grantee and of such sharers as shall consent in writing.

9. Under Rule 422(c) of the High Court OS Rules, this Court in a proper case and for reasons to be recorded in writing may dispense with the justification of the surety.

10. In the facts of this case, the Petitioner as well as the three other legal heirs are the agnates of the deceased viz. the first cousins of the deceased, through the father of the deceased viz. the children of the brothers of the deceased's father. The deceased was unmarried and did not leave any immediate legal heirs behind him at the time of his death and his parents also pre-deceased him and he was the only child having no brothers and sisters, there being no heirs surviving in Class-I and Class-II to the schedule under the Hindu Succession Act, 1956.

11. The three other heirs viz. Mr. Vivek Ramnath Sawe, Vilas Dwarkanath Sawe and Mr. Sunil Dwarkadas Sawe, have given their consenting affidavits dated 8th October, 2024. Paragraph-3 of the said affidavits clearly record their no objection and their full and free

consents to the Petitioner viz. Mrs. Hemlata Dattaram Chalke and also waive service of the citation. In paragraph 3 it has also been stated that the Letters of Administration be granted to the Petitioner without asking for any justification of surety in respect of their shares.

12. Under Rule 422 (b) of the High Court OS Rules, it has been provided that when the person to whom the grant of Letters of Administration is made is entitled to only a portion of the estate, the surety to the bond shall justify for the whole estate less the share of the grantee and of the consenting sharers.

13. In the facts of this case, the entire estate of the deceased would have to be divided amongst the four agnates viz. the Petitioner and the three other consenting heirs and as noted above, the three other heirs have given their no objection and also consented to the grant of Letters of Administration to the Petitioner without justifying surety.

14. In this view of the matter, since there is consent to the administration of the entire estate and for the grant of the Letters of Administration to the Petitioner, nothing would remain to be justified by surety and therefore, this Court is of the view that it would not be necessary for a surety to justify any amount of the estate.

15. Accordingly, the requirement for justification of the surety in the facts of this case is dispensed with.

16. The Registry to accept the administration bond from the Petitioner without requirement of justification by surety.

17. Thereafter, the department to proceed with the Petition for Letters of Administration as per law.

18. The Interim Application to accordingly stand allowed and disposed of as above.

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
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