

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 14th June, 2024**

CALLED FOR COMPLIANCE :

25 TP/201/2024) Ms. Kavita Mungse i/b. Yatin R. Shah, Advocate for
) petitioner
)
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Deepak
) Ganpat Sankhe (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 01.10.2020 at
) Mumbai. Petitioner has filed the copy of death certificate
) (which is annexed to petition as Exhibit-A), identity proof
) of the testator (which is annexed to petition as Exhibit-
) A1), Will along with its official translation, petitioner's
) oath, affidavits of legal heirs of the testator.
)
) 2. The petitioner has filed petition within prescribed
) limit as per Rule 382 of the Bombay High Court
) (Original Side) Rules, 1980 (for short “Rules”).
)
) 3. The testator has not appointed executor to execute the
) Will. The petitioner is the one of the legatees named
) under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at Mumbai
) on 11.08.2020, in Marathi language. Its official
) translation is filed on the record. The original copy of the
) 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.
)
) 5. Testator was survived by legal heirs shown in the
) paragraph No. 9(a) of the petition, as per the provisions
) of the Hindu Succession Act, 1956. Testator died leaving
) behind his mother namely Usha Ganpat Sankhe, one
) daughter namely Sampada Gupta, Son namely Soham
) Sankhe. Testator has obtained divorce from his first wife
) namely Padmaja Deepak Sankhe on 13.04.2006. Copy of
) the said order is annexed to the petition at2
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) Exhibit – “G”. Testator has second wife namely Shobha
) Deepak Sankhe. Consent Affidavits of Usha Ganpat
) Sankhe dated 09.02.2021, Sampada Gupta dated
) 11.02.2021, Soham Sankhe dated 24.05.2022, Shobha
) Deepak Sankhe dated 10.11.2021 are on record. They
) have given their consents in the form of Affidavits, which
) are filed on the record by the petitioner and consented for
) the issuance of Letters of Administration with Will
) annexed in favour of the petitioner without justifying any
) surety in respect of their shares in the estate of the
) testator. They have waived the service of Citation. The
) petitioner affirmed that there are no other legal heirs of
) the testator other than mentioned in para 9(a) of the
) petition.

) 6. Affidavit of Service of General Citation is filed,
) stating that citation has been affixed on the Notice Board
) of the Hon’ble High Court, Bombay and notice board of
) the Collector’s office on 15.03.2024. Notice to collector
) has been sent.

) 7. The petitioner has filed the Affidavits of Vijay
) Harishchandra Patil and Janardan Namdev Madav, both
) dated 23.07.2021, being Attesting Witnesses to the Will,
) in the Form No.102 of the Bombay High Court (Original
) Side) Rules, 1980. They deposed that they were present
) and testator signed on the Testament papers in presence
) of both of them. According to them, 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 Bombay High Court
) (Original Side) Rules, 1980. They further deposed that at
) the time of execution of the Will, testator was of sound
) and disposing mind, memory and understanding. Hence,
) enough evidence is on record to accept the execution of
) the Will and petitioner is succeeded to prove the
) execution of Will.

) 8. Testator has bequeathed some of the properties to
) Pradeep Ganpat Sankhe, brother – petitioner herein and
) Jyoti Sunil Kapoor – sister. Said Jyoti Kapoor has filed
) consent Affidavit dated 09.02.2021.3
)

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She has given her consent in the form of Affidavit, which is filed on the record by the petitioner and consented for the issuance of Letters of Administration with Will annexed in favour of the petitioner without justifying any surety in respect of her share in the estate of the testator. She has waived the service of Citation.

9. Ld. Advocate for the petitioner submits that as mentioned in the Will, which reads as under :

“I Shri Deepak G. Sankhe, aged – 62 years, the eldest son of late Ganpat Pandurang Sankhe, by virtue of this Will dispossess Smt. Padmaja Sankhe alias Bangale and Smt. Shobha Sankhe alias Sonawane and their children from my movable and immovable properties”.

Ld. Advocate for the petitioner has filed Affidavit of petitioner dated 7th June, 2024 and stated on oath that testator was married to Padmaja Sankhe on 5th January, 1983, out of the said wedlock, they have two children namely Sampada Gupta and Soham Sankhe. Testator has taken divorced with his wife on 13th April, 2006. Copy of decree of divorce is annexed to the said Affidavit. Both the children namely Sampada and Soham have given their consents in favour of the petitioner.

10. Properties mentioned in the schedule of the petition are referred in the Will as well as in residuals clause of the Will. The Ld. Advocate for the petitioner submitted that as mentioned in paragraph No. 6 of the petition, which reads as under :

“That since the death of the deceased some of the investments / bank accounts jointly standing in the name of the deceased and his mother Usha Ganpat Sankhe and his father Ganpat Pandurang Sankhe have been dealt with. That the petitioner has truly set forth in Schedule No. I, hereto annexed and marked Exhibit – “C”, all the properties and credits which the deceased possessed of or entitled to at the time of his death, and which have or are likely to come to his hand”.

The Ld. Advocate for the petitioner submitted that properties available to the testator at the time of4

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) his death mentioned in the Schedule – I of the petition
) and other assets had already been distributed as per Will.
)

) 11. Ld. Advocate for the petitioner submits that as
) mentioned in paragraph No. 9(c) other beneficiaries viz.
) Devang Sankhe, Kunal Kapoor, Karan Kapoor and Sunil
) Kapoor, articles have been distributed by testator in the
) lifetime of the testator. Therefore, Ld. Advocate for the
) petitioner submits that the said articles are not available
) at the time of filing of the petition and such pleadings is
) mentioned in the petition. Therefore, the said
) beneficiaries have not called for.
)

) 12. Petitioner has executed the Administration Bond
) dated 26th February, 2024, in the prescribed format.
) Hence, following order:
)

) **ORDER**
)

) 1) Petition is granted.
)

) 2) Office to issue Letters of Administration with Will
) annexed as per the provisions of the Indian Succession
) Act, 1925 to the petitioner and upon satisfaction that the
) administration Bond is properly executed, as per the
) Rules.
)

) 3) Before issuance of above said 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.
)

14.06.2024

FIRST ASSISTANT MASTER