

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 10th July, 2024**

CALLED FOR COMPLIANCE :

36 TP/2355/2024) Ms. Saraswati Rajpurohit i/b. Rajkumar K. Shukla,
) Advocate for petitioner
)
) -
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole legatee
) under the Will executed by Jamnabai Kumbandas
) Dhamanmal (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 08.12.2017
) at Bahrain. Petitioner filed the copy of death certificate
) (which is annexed to petition as Exhibit- A), identity
) proof of the testatrix (which is annexed to petition as
) Exhibit- A1), Will, petitioner's oath, affidavits of legal
) heirs of the testatrix.
)
) 2. The petitioner has explained the delay in para 11 of
) the petition vide Rule 382 of the Bombay High Court
) (Original Side) Rule, 1980(for short “Rules”).
)
) 3. The testator has not appointed executor to execute
) the will. The petitioner is being sole legatee named
) under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at
) Mumbai on 08.04.2002, in English language. Ld.
) Advocate for petitioner submits that 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.
)
) 5. Petitioner states that parents of testatrix and parents
) of husband of testatrix were predeceased to her and
) testatrix was survived by legal heirs shown in the
) paragraph No. 8 of the petition, as per the provisions of
) the Hindu Succession Act, 1956. Husband of testatrix
) namely Kumbandas Dhamanmal died on 17.03.2019.
) Testrix died leaving behind only Son namely Nitesh
) Kumbandas - petitioner herein and2
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-- 2 --

36 TP/2355/2024

had no daughter. The petitioner affirmed that there are no other legal heirs of the testatrix other than legal heirs mentioned in para 8 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 12.06.2024. Notice to collector has been sent.

7. The petitioner has filed the affidavit of Jyoti Bhatia dated 25.04.2023, one of Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that she was present and testatrix signed on the Testament papers in presence of her and another witness. According to her, 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. Attesting Witness deposed that she was present together with another witness namely P. D. Chandrapota, at the residence of testatrix. Testatrix has shown both of them handwritten Will in English language and in presence of both of them testatrix has affixed her signature on the said Will. Attesting witness further deposed that at the time of execution of the Will, testatrix 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. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for petitioner submits that as mentioned in para 6 of the petition, which reads as under :

“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 died possessed of or entitled to at the time of her death, which have or are likely to come to the Petitioner's hands.3

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36 TP/2355/2024)

So far as the Petitioner has been able to ascertain or is aware, there are no property and credits

other than what are specified in the schedule attached to the petition”.

The Ld. Advocate for the petitioner submitted that properties available to the testatrix at the time of her death are mentioned in the Schedule-I of the petition.

9. Ld. Advocate for petitioner submits on instructins that locker No. 1078 in the name of testatrix was at Bank of India, Nepanse Road Branch had been surrendered on 10.09.2018.

10. Ld. Advocate for petiitioner submits that as per order passed by the Hon’ble Court in Testamentary Petition No. 2556 and 2559 of 2022, petitioner being the sole class – I heir of the testatrix is exempted from furnishing the Administration Bond. 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

10.07.2024

FIRST ASSISTANT MASTER