

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 9th August, 2024

CALLED FOR COMPLIANCE :

41 TP/2364/2024) Mr. B. G. Saraf a/w. Suyash Kalbhor, Advocate for
) petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner for the Letters of
) Administration (De Bonis Non) with Will annexed
) being legal representative of the one of the beneficiaries
) named under the Will executed by testatrix namely
) Freny Jeejeebhoy Divecha. Testatrix had appointed
) Sohrab Jeejeebhoy Divecha being sole Executor named
) under the Will. Said Executor had applied to this
) Hon'ble Court for petition for Probate of the last Will
) and testament of testatrix above named Testamentary
) Petition No. 227 of 1984. This Hon'ble Court had
) granted Probate in favour the Executor having effect
) throughout the India on 12.01.1987. Copy of the
) Probate is annexed to the petition as Exhibit – "C".
) After obtaining Probate the said Executor during their
) lifetime did not administered the estate of the testatrix
) in favour of the beneficiaries. He died without final
) distribution of the estate to heirs as per the provisions
) of the Will. Said Executor namely Sohrab Divecha died
) on 11.03.1995 and his death certificate has been
) annexed to the petition as Exhibit "C1".
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) 2. Ld. Advocate for petitioner submits that above
) Executor was also beneficiary named under the Will of
) testatrix. He had not administered properties belongs to
) the estate of testatrix abovenamed are shown in
) Schedule I of the petition and the same has been
) annexed to the petition as Exhibit – "B". Item shown in
) the Schedule I of the petition remained to be
) administered. Also, beneficiaries under the last Will of
) the testatrix has not administered the properties belongs
) to the testatrix as shown in Schedule I to the petition.
) Hence, petitioner is legal representative of one of the
) beneficiaries named under the Will

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) dated 15.08.1974 of Sohrab J. Divecha who was sole
) Executor and beneficiary named under the Will of the
) testatrix. Hence, Ld. Advocate for petitioner submits
) that petitioner herein is proper person to apply for
) Letters of Administration (De Bonis Non) for the Will
) annexed for the un-administered estate of the testatrix.
) He further submits that the Petition which was filed for
) Probate of last Will of said Sohrab Divecha by
) petitioner herein viz. Adi Keki Motafram being
) Testamentary Petition No. 2237 of 2024.

) 3. Said testatrix said to have died on 02.08.1981 at
) Mumbai. Petitioner has filed the copy of death
) certificate (which is annexed to petition as Exhibit-A),
) photocopy of Probate issued by this Hon'ble Court in
) Testamentary Petition No. 227 of 1984, petitioner's oath
) and Affidavit of the legal representatives of the
) beneficiaries.

) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at
) Mumbai on 15.08.1974, 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 in Testamentary Petition
) No. 227 of 1984.

) 5. Petitioner states that parents of testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No. 6 of the petition, as
) per the provisions of the Indian Succession Act, 1925
) applicable to Parsi. Testatrix has two brothers namely
) Sohrab Divecha and Ardeshir J. Divecha, both of them
) died as bachelors. Legal heirs shown in para No. 6 of
) the petition are cousin sister of the testator (father's
) brother daughter) and her son namely Adi Keki
) Motafram – petitioner herein. Consent Affidavit of
) Thrity dated 05.08.2024 is on record. 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 (De-Bonis Non) with Will
) annexed in favour of the petitioner without3

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justifying any surety in respect of her share in the estate of the testatrix. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 6 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 19.07.2024. Notice to collector has been sent.

7. Will is already proved in Testamentary Petition No. 227 of 1984. Properties mentioned in the Schedule-I of the petition are mentioned in the Probate which are yet to be administered.

8. Ld. Advocate for petitioner submits that as per Will, there are beneficiaries namely Gool Keki Doctor and Jeejee Farendoon Divecha. He further submits that both the beneficiaries died and he undertakes to file death certificates on the official portal of the Bombay High Court within one week from today. The said undertaking is accepted.

9. Furthermore, Ld. Advocate for petitioner submits that he has filed Administrator's Oath of the petitioner and undertakes that he will faithfully administered the property and credits of the testatrix and in any way concerning her Will by paying first her debts and then the legacies therein bequeathed so far as the said assets and file inventory of the said assets. Petitioner has undertaken to faithfully administer the properties which was remained to be administered as per the Will of testator's. Hence, Letters of Administration (De Bonis Non) with Will annexed being legal representative of one of the beneficiaries should be granted to the Petitioner.

10. Petitioner has executed the Administration Bond dated 25.07.2024, in the prescribed format. Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration (De Bonis Non) 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.

FIRST ASSISTANT MASTER