

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 8th April, 2024

CALLED FOR COMPLIANCE :

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) Ms. S. J. Nagasri, Advocate for petitioner

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for
) petitioners. This petition is filed by petitioners both
) being legatees named under the Will executed by
) Nirbhay Narayan Lal Das (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 22nd September, 2018 at Mumbai. Petitioner
) 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-A-1), Will
) along with its official translation, petitioner's oath,
) affidavits of legal heirs of the testator.
)
) 2. The petitioners have filed petition within
) prescribed limit as per 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 petitioners are legatees named under the
) Will. Hence, petition is tenable.
)
) 4. Petitioners stated that the testator left behind his
) last Will and Testament which was duly executed at
) Mumbai on 12th June, 2018, in English language. 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. Petitioners states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No.9 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Wife of testator namely Urmila Nirbhay Das died on
) 21st September, 1981. Testator died leaving behind
) three sons and three daughters. Three sons are namely
) Naveen Kumar Das (Constituted Attorney of both the
) petitioners), Niraj Nirbhay Narayan (Petitioner No.1)
) and Nirmal Kumar N. Das (petitioner No.2).2

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-) Three daughters namely Nutan Kumari Das, Nilida Shiromani and Nimmi Kundan. Consent Affidavits Nutan Kumari Das dated 5th April, 2023, Nilida Shiromani 25th April, 2023 and Nimmi Kundan dated 20th May, 2023 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 petitioners 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 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 11th December, 2023. Notice to collector has been sent.
-) 7. Petitioners have filed the Affidavit of Kumar Kanak Kishore dated 12th April, 2023, one of Attesting Witness to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that witness was present and testator signed on the Testament papers in presence of this witness and another witness. According to witness, 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 at the time of execution of Will, testator was of sound and disposing mind, memory and understanding. Will is duly notarized before Jagdish Tryambak Dongardive, Advocate & Notary. 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-I of the petition are referred in the Will. The Ld. Advocate for the petitioners submitted that petitioner has truly3

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) set in the Schedule I of properties which testator died
) possessed of or entitled to at the time of his death,
) which have or are likely to come to the petitioners and
) there are no property credits other than what are
) specified in the Schedule attached to the petition.

) 9. Petitioner has executed the Administration Bond, in
) the prescribed format. Hence, following order :

ORDER

-) 1) Petition is granted.
)
) 2) Office to issue LIMITED Letters of Administration
) with Will annexed vide section 241 of the Indian
) Succession Act, 1925, for use and benefit of their
) principals, limited until their principals shall apply for
) Letters of Administration with Will, as per the
) provisions of the Indian Succession Act, 1925 to the
) petitioners 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.
)

08.04.2024

FIRST ASSISTANT MASTER