

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 30th September, 2024

CALLED FOR COMPLIANCE :

26 TP/61/2024) Mr. Prabhu Velar i/b. I.A. Khan & Associates , Advocate
) for petitioner
)

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being Sole legatee
) named under the Will executed by Farzana Noel Soans
) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 9th March, 2022 at Mumbai.
) Petitioners 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-A-1),
) Will, petitioner's oath, affidavits of legal heirs of the
) testatrix.
)
) 2. The petitioner has filed the present petition within
) prescribed limit as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The testatrix 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 13th July, 2021 in English language. Ld. Advocate for
) petitioner submits that the original Will No. 21 of 2024 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 Grandparents 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 Mohammedan Law as applicable to
) Sunni Muslim. Father of testatrix namely Abdul Sattar
) Khan predeceased the testatrix on 3rd October, 2020 and
) death certificate is annexed to the petition as Exhibit -
) “D”. Testatrix has married to one Noel Wilson Soans ...2

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) who died on 19th August, 2021. Testatrix died issue-less
) and did not re-marry again.
)

) Testatrix died leaving behind her mother namely Gul
) Bano Sattar Khan, brother namely Javed Sattar Khan and
) Sister namely Shabhana Abdul Sattar Khan. Consent
) Affidavits of Gul Bano Sattar Khan, Javed Sattar Khan
) and Shabhana Abdul Sattar Khan all dated 30th April,
) 2024 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 testatrix. They have waived the
) service of citation. The petitioner affirmed that there are
) no other legal heirs of the testatrix other than mentioned
) in para No. 8 of the petition.
)

) 6. Ld. Advocate for the petitioner submitted that
) petitioner has filed Affidavit dated 06.09.2024 and have
) annexed copy of “Khula-Nama” dated 1st June, 2016 with
) her husband. The said Khula-nama was executed before
) three witnesses and copy of the same is annexed to the
) Affidavit as Exhibit – “A”. Also, he has annexed copy of
) divorce / khula / talaq via Khula-nama before Rehmat Ali
) Kazi on 06.06.2016, which was annexed to the Affidavit
) as Exhibit – “B” and “B1”. As mentioned in Khula-nama
) her husband namely (Faiz) Noel Wilson Soans had got
) married as per Islamic rites and rituals with the testatrix
) after accepting Islam but after marriage, their relations
) came to bad to worst and there is no hope to succeed
) happy married life hence, Khula-nama has been taken
) place by consent of testatrix and Noel Wilson Soans.
) Thereafter, her husband died on 19.08.2021 as issue-less.
)

) Ld. Advocate for the petitioner further submits that as
) per Mohammedan Personal Law applicable to Sunni
) Muslim, the woman can release herself from the tie by
) giving up some property in returns in consideration of
) which the husband is to give her khula, and when they
) have done this a “talaq-ul-bain” would take place. The
) compensation paid by the wife to the husband is not an
) essential condition for a valid divorce
)

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“That the petitioner has truly set forth in Schedule No. I hereto annexed and marked as Exhibit4

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“C” all the property and credits which the said deceased possessed of or entitled to at the time of her demise, which have or are likely to come in hands of the petitioner. 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”.

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

10. Ld. Advocate for petitioner submits that as per Will testatrix had bequeathed her only property which was mentioned in Schedule I of the petition to the petitioner. Petitioner has filed all Consent Affidavits of all legal heirs as per Mohammedan Law. Husband of testatrix died on 19.08.2021 and testatrix died issue-less. Hence, Letters of Administration with Will shall be granted in favour of petitioner.

11. Petitioner has executed the administration Bond dated 01.04.2024 and 06.09.2024, 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.

30.09.2024

FIRST ASSISTANT MASTER