

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 12th August, 2024**

CALLED FOR COMPLIANCE :

30 TP/74/2024) Ms. Chhaya Parab i/b. Shah & Sanghavi, Advocate for
) petitioner
)
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by Samir Sanatkumar Paleja, being
) the constituted Attorney of Jay Prakash Tanna, being the
) Sole Executor named under the Will executed by Shanta
) Maganlal Tanna (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 7th December,
) 2018 at Horton House, Gordon, NSW 2072, Australia.
) 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-A-1),
) Will along with its official translation, petitioner's oath,
) Affidavits of legal heirs of the testatrix.
)
) 2. The petitioner has explained the delay in Para NO.10
) as per Rule 382 of the Bombay High Court (Original
) Side) Rule, 1980 (for short “Rules”).
)
) 3. The Petitioner is the son and Sole Executor appointed
) under the Will of the testatrix and is a senior citizen and
) permanently residing in Australia. He is unable to travel
) from Australia to India for the purpose of filing the said
) petitioner and pursue the same till the grant of Letters of
) Administration with Will annexed. Therefore, petitioner
) herein has appointed Samir Sanatkumar Paleja as his
) Constituted Attorney on his behalf for obtaining the letters
) of Administration with Will of the testatrix. Executor
) has executed a power of attorney in favour of petitioner to
) seek Letters of Administration with Will Annexed as per
) section 241 of the Indian Succession Act, 1925 along with
) Rule 385 of the Bombay High Court (Original Side) Rule,
) 1980. Copy of Power of Attorney dated 18th October,
) 2022, from petitioner in favour of Samir Sanatkumar
) Paleja is annexed to the petition as EX-C.2

CONTD....

– 2 –

30 TP/74/2024

4. Petitioner stated that the testatrix left behind her last Will and Testament which was duly executed at Australia on 22nd June, 2018 at Horton House, Gordon, NSW 2072, Australia 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 and husband of testatrix were predeceased to her and testatrix was survived by legal heirs shown in the paragraph No.9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Husband of testatrix namely Maganlal Nathalal Tanna died on 6th September, 2010. Testatrix has three married daughters and one son. Testatrix's three married daughters are namely Anila Kirit Ruparelia, Geeta Harshad Ruparelia and Bharti Nathalal Tanna. One of the daughter of testatrix namely Bharti Nathalal Tanna died on 24th August, 2015, leaving behind her daughter namely Rekha Narendra Ranchordas, Sonia Narendra Ranchordas and son namely Manoj Narendra Ranchordas, son-in-law namely Narendra Kumar Ranchordas. Testatrix only son namely Jay Prakash Tanna - petitioner herein.

Consent Affidavits Anila Kirit Ruparelia dated 14th February, 2023, Geeta Harshad Ruparelia dated 22nd February, 2023, Sonia Narendra Ranchordas dated 23rd December, 2023, Narendra Kumar Ranchordas dated 23rd December, 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 petitioner without justifying any surety in respect of their share 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 9 of the petition.

6. Citation to Rekha Narendra Ranchordas and Manoj Narendra Ranchordas has been served through Sheriff of Mumbai. Affidavit of Service dated 18th April, 2024, filed by S. G. Pujari, Bailiff and Clerk to the office of Sheriff of

CONTD...

Mumbai, dated 18th April, 2024 is on record.3

30 TP/74/2024

– 3 –

He deposed that as per postal Tracking Reports Citations was received to Rekha Narendera Ranchordas and Manoj Narendera Ranchordas on 2nd March, 2024. Copy of Postal Tracking reports annexed to the affidavit of service as EX-C and D. Hence, Citation to Rekha Narendera Ranchordas and Manoj Narendera Ranchordas was issued, which is duly served by Sheriff as per Rule 399 of the Bombay High Court (Original Side) Rules, 1980. However, both of them have not resist the petition till date. Hence, this petition is uncontested petition and proceeded with accordingly.

7. 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 4th March, 2024. Notice to collector has been sent.

8. The petitioner has filed the Affidavit of Sejal Tanna dated 6th February, 2023, one of Attesting Witness to the Will, in 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 testatrix had put her initials "S.M.T." at the foot of the page Nos. 1 to 3 of the Will and also the docket (Page No.5) in English language and put her full signature on page No. 4 of the 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.

9. Properties mentioned in the schedule-I of the petition are referred in the Will as well as in residuals clause of the Will. Ld. Advocate for the petitioner submit that as

CONTD...

30 TP/74/2024)

mentioned in Paragraph no. 6 of the petition which read as follows :4

– 4 –

“That the Petitioner has truly set forth in Schedule I hereto annexed and marked Exhibit – “D” all the property and credits which the deceased died or possessed of or was entitled to at the time of her death, which is to the knowledge of the petitioner and is likely to come to the hands of the Petitioner”.

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.

10. As per paragraph No.5 of the Will, which reads as follows :

“I direct my Executor and Trustee in the first instance to pay the following amounts and monies out of my estate :

(a) To pay all my just and legal debts.

(b) To pay Probate duty and / or estate duty (if any) payable in respect of the estate left by me.

(c) To pay my funeral and other charges.”

Ld. Advocate for the petitioner submits that petitioner has filed Administrator’s Oath dated 6th February, 2023 and undertaken to comply with the same.

11. Petitioner has executed the Administration Bond dated 31st July, 2024, in the prescribed format. Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with Will annexed as per Section 241 of the Indian Succession Act, 1925 to the Constituted Attorney of petitioner till original Petitioner come and apply 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.

12.08.2024

FIRST ASSISTANT MASTER