

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 23rd October, 2024

CALLED FOR COMPLIANCE :

31 TP/179/2024) Mr. Saurabh Oka, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by
) Bhalchandra Krishna Patil (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 14.04.2021 at Thane. 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- A1), Will, petitioner's
) oath, Affidavits of legal heirs of the testator.
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) 2. The petitioner has 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 petitioner is being one of the beneficiaries
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 01.03.2021, in Marathi language. Ld.
) Advocate for petitioner submits that the original Will
) No. 34 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.
) Ld. Advocate for petitioner has filed his Affidavit dated
) 26.09.2024, he deposed that he is well versed with the
) reading and understanding of Marathi and English
) languages. He certified that English translation of the
) Will which was annexed to the petition along with
) petition is true and correct. Hence, this is in compliance
) with the order passed by the Hon’ble Court dated
) 10.01.2024 in Testamentary Petition No. 1263 of 2023.
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5. Petitioner states that parents of testator were predeceased to him and testator was survived by legal heirs shown in the paragraph No. 6 of the petition, as per the provisions of the Hindu Succession Act, 1956. The wife of testator namely Kishanibai Bhalchandra Patil predeceased to testator. Testator has three sons and two daughters. Testator's three sons are namely Ganesh Bhalchandra Patil – petitioner herein, Arun Bhalchandra Patil and Jaywant Bhalchandra Patil. One of the son of the testator namely Jaywant Bhalchandra Patil died on 15.05.2012 leaving behind Kishori Jaywant Patil – wife and Janhavi Mihir Joshi – married daughter. Copy of death certificate of said Jaywant Patil is annexed to the petition as Exhibit – “C”. Testator's two daughters are namely Geeta Bharat Keni and Hemlata Ashok Bhoir.

Consent Affidavits of Arun Bhalchandra Patil, Kishori Jaywant Patil, Janhavi Mihir Joshi, Geeta Bharat Keni and Hemlata Ashok Bhoir all dated 07.10.2023 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 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 No. 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 02.04.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit and Additional Affidavit of Shrikant Sakharan Lohar dated 07.10.2023 and 14.10.2024, 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 he was present and testator put his left-hand thumb

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presence of his and another witness. According to him, all additions and alteration, in a Will, were existed at the time of execution and before execution of the Will. Hence, there is sufficient compliance of the Rule 383 of the Bombay High Court (Original Side) Rules, 1980. Attesting Witness deposed that testator who can read and write Marathi language but due to old age his writing ability had diminished as his hands would shake. He further deposed that testator had read the Will which is in Marathi language and he understood its in entirety. Hence, there is compliance of Rule 419 of the Bombay High Court (Original Side) Rules, 1980. Attesting Witness further deposed that at the time of execution of the Will, testator 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 as well as in residuals clause of the Will. Ld. Advocate for petitioner submits that as mentioned in para No. 7 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I, hereto annexed and marked Exhibit – “E” all the properties and credits which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to the petitioner’s hands. 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 testator at the time of his death are mentioned in the Schedule – I of the petition.

9. Petitioner has executed the Administration Bond dated 29.04.2024, in the prescribed format. Hence,

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following order:

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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.

23.10.2024

FIRST ASSISTANT MASTER