

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 13th August, 2024

CALLED FOR COMPLIANCE :

17 TP/182/2024) Ms. Geetanjali Kulkarni, Advocate for petitioner

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-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
-) This petition is filed by petitioner, being sole beneficiary
-) named under the Will executed by Sulbha Madhukar
-) Dhond (herein after the same is referred to as
-) “Testatrix”), for grant of Letters of Administration with
-) Will annexed. Testatrix said to have died on 19.10.2021
-) at Mumbai. 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-A1), Will, petitioner's oath, Affidavits of legal
-) heirs of the testatrix.
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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”).
-)
-) 4. The testatrix has not appointed executor to execute
-) the Will. The petitioner is being sole beneficiary named
-) under the Will. Hence, petition is tenable.
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-) 5. Petitioner stated that the testatrix left behind her last
-) Will and Testament which was duly executed at Mumbai
-) on 25.11.2017, 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.
-)
-) 6. Petitioner states that parents of testatrix were
-) predeceased to her and testatrix was survived by legal
-) heirs shown in the paragraph Nos. 9 and 10 of the
-) petition, as per the provisions of the Hindu Succession
-) Act, 1956. Husband of testatrix namely Madhukar
-) Vasudeo Dhond was predeceased to the testatrix who
-) died on 05.12.2007 and his death certificate is annexed as
-) Exhibit–“E” to the petition. Testatrix died leaving behind
-) her only daughter namely2

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Gauri Salim Shroff – petitioner herein. Testatrix has only son namely Nachiket Madhukar Dhond. The said son of testatrix is missing from 08.05.2009, since then petitioner and her mother have taken every efforts to know the whereabouts of him but they couldn't found said Nachiket Dhond. He was missing from last 14 years. Thereafter, petitioner has filed L.C. Suit No. 100 of 2023 before the Hon'ble Bombay City Civil Court, Mumbai and order has been passed on 06.05.2024. As per the order passed by the Hon'ble Court said son of testatrix namely Raja alias Nachiket Madhukar Dhond has been declared as dead. Ld. Advocate for petitioner also states that Gauri S. Shroff – petitioner herein will be sole heir to testatrix's movable and immovable properties. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para Nos. 9 and 10 of the petition.

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 21.03.2021. Notice to collector has been sent.

8. The petitioner has filed the Affidavit of Rajesh Kumar Jogi and Vinay Ganesh Newelkar both dated 11.05.2023, both Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that they were present and testatrix signed on the Testament papers in presence of both of them. According to them, 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 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.

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9. 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 as mentioned in para No. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule I hereto annexed and marked as Exhibit “C” is list of all the property and credits which the said deceased possessed of or entitled to at the time of her death which have or are likely to come to her hands. So far as the Petitioner is able to ascertain or is aware, there is no property and credits other than what are specified in Schedule – I hereto”.

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

Ld. Advocate for petitioner submits that as per Will, testatrix has bequeathed all his movable and immovable properties to her daughter namely Gauri S. Shroff – petitioner herein as sole heir of her.

10. Petitioner has executed the Administration Bond dated 16.04.2024 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

