

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 5th September, 2024**

CALLED FOR COMPLIANCE :

14 TP/231/2024) Mr. Dinesh Wani i/b. Tripathi Associates, 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
) Ramchandra Kanu Chavan (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 10.01.2021 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- A1), Will alongwith its
) official translation, petitioner's oath, Affidavits of legal
) heirs of the testator.
)
) 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 sole beneficiary 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 24.03.2018, in Marathi language. Its
) official translation is annexed to the petition. 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 of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 8 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind his wife namely Bharati
) Ramchandra Chavan. Testator died issue-less.2

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Consent Affidavit of Bharati Ramchandra Chavan dated 28.08.2023 is on record. Ld. Advocate for petitioner submits that in her consent Affidavit in title, it has been correctly mentioned that “petition for Letters of Administration with the last Will’. However, in para Nos. 2 and 3 of Affidavit, there is typographical error by typing “Probate”. Hence, he undertakes to upload fresh consent Affidavit. Ld. Advocate for petitioner undertakes to upload the corrected petition. The said undertaking is accepted. She has given her consent in form of Affidavit, which is 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 her share in the estate of the testator. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testator other than mentioned in para No. 8 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 06.03.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit and Additional Affidavit of Sanjay Vasant Patil dated 28.08.2023 and 02.05.2024, one of Attesting Witness to the Will, in 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 his and another witness. According to him, 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 he had interpreted and explained the Will in Marathi language to the testator at the time of execution of the Will. Will is duly registered before the Joint Sub-Registrar, Mumbai City No. 2 under registration No. BBE-2/3636/2018.

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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. Ld. Advocate for petitioner submits that as mentioned in para No. 6 of the petition, which reads as under :

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

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 28.08.2023, 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

