

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 18th April, 2024**

CALLED FOR COMPLIANCE :

27 TP/244/2024) Mr. Shailesh Salvi i/b. Radhika Warerkar, Advocate for
) petitioner
)

) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioners.
) This petition is filed by petitioners, being legatees named
) under the Will executed by Bhalchandra Shantaram
) Kasbekar (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 29th January,
) 2018 at New Jersey, U.S.A. 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-B), Will along with its translation,
) petitioner's oath, affidavits of legal heirs of the testator.
)
) 2. The petitioner has explained the delay in paragraph
) No. 14 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 petitioners are legatees 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 Kudal,
) Sindhudurg on 9th February, 2016, in Marathi language.
) Ld. Advocate for the petitioner filed her Affidavit dated
) 16th April, 2024 and stated in para No. 4 of the said
) Affidavit that “it is an admitted position that the above
) petition is an uncontested proceeding and the translated
) copy of the Will is already on record. I further say that the
) original Will is in Marathi language and I am familiar with
) Marathi as well as English language. I certify that I indeed
) have knowledge of “Marathi” as well as “English”
) language. I further say certify that the translation of the
) Will placed on record is true and correct”. This is in
) compliance with order dated 10.01.2024 in Testamentary
) Petition No. 1263 of 2023 passed by the Hon’ble Court.
) The original Will is handed in separately for being filed
) and kept in a safe place in the Office of the2

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Prothonotary and Senior Master, High Court, Bombay.

5. Petitioner states that mother of testator was predeceased to him and testator was survived by legal heirs shown in the paragraph No.9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Wife of testator namely Rita Kasbekar died on 10th August, 2021. Testator died leaving behind two sons namely Milind Kasbekar (Petitioner No.1) and Nagnath Kasbekar (Petitioner No.2). The petitioners affirmed that there are no other legal heirs of the testator other than mentioned in paragraph No. 9 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 Collector's office on 29th February, 2024. Notice to collector has been sent.

7. The petitioners have filed the Affidavit of Ketan Vasant Padgaonkar, 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 signed on the Testament 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. Will is duly executed at Kudal. Sindhudurg, on 9th February, 2016 and registered with Office of Joint Sub Registrar-Class 2, Sindhudurg on 9th February, 2016 under Registration No. KDS/222/2016. He 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 I of the petition are referred in the Will as well as in residuals clause of the Will. The Ld. Advocate for the petitioner submitted that properties available to the testator at the time of his are mentioned in the schedule-I of the petition.

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9. As per requisitions raised as per order dated 8th April, 2024, requisition No.1, which read as “To verify para no. 10 of will”. Para 10 of the Will reads as under :

“I believe the god and my both sons Milind Bhalchandra Kasbekar and Nagnath Bhalchandra Kasbekar should spend on joint consent for my last rites and all other kinds of post demise rights that I may get peace on my demise on concluding my worship and all other kinds of prayers yearly and they should look after my wife also properly after me”.

Ld. Advocate for the petitioner has filed Affidavit dated 16th April, 2024 and Ld. Advocate for the petitioner has annexed e-mail received from both the petitioners stating that as per E-mail with reference to requisition No. 1 referred to above I verify and confirm that myself and my brother Milind Bhalchandra Kasbekar have with our joint consent and at our cost spent the monies for the last rites of our father late Bhalchandra Shantaram Kasbekar and also for all other kinds of post demise rights / ceremonies including annual ceremonies like Shraddha so that our father may get peace on his demise. I further verify and confirm that myself and my said brother Milind have looked after our mother Mrs. Rita Bhalchandra Kasbekar and taken her care after the death of my father till her demise on 10.08.2021.

10. As per requisitions raised as per order dated 8th April, 2024, requisition No.3, which reads as “To confirm whether as per Will, there any other suit is pending about the properties mentioned in the Will”.

Ld. Advocate for the petitioner has filed Affidavit dated 16th April, 2024 and stated that with reference to requisition No. 3 referred to above I verify and confirm and have to inform you that there is no litigation or suit pending about the properties mentioned in the Will dated 9th February, 2016 referred to in the above petition.

11. Petitioners have executed the Administration Bond dated 26th March, 2024, in the prescribed format. Hence, following order :4

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.

18.04.2024

FIRST ASSISTANT MASTER