

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 6th May, 2024

CALLED FOR COMPLIANCE :

1 TP/251/2024) Mr. A. R. Bapat, Advocate for petitioner

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-) **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 Parimal
-) Dhirajlal Shah (herein after the same is referred to as
-) “Testator”), for grant of Letters of Administration with
-) Will annexed. Testator said to have died on 23rd July, 2017
-) at Pune. 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, 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 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 20th January, 2017, in English language. 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 mother of testator namely
-) Baluben D. Shah died on 26th March, 1996. Testator was
-) survived by legal heirs shown in the paragraph No.10 of
-) the petition, as per the provisions of the Hindu Succession
-) Act, 1956. Testator had died as bachelor. Ld. Advocate for
-) the petitioner submitted that as mentioned in para no. 10
-) of the petition and as mentioned in para no. 4 of the Will,
-) testator did not leave any other heir or next-of-kin.
-) Testator died leaving behind his brother namely Dr.,
-) Bharat D. Shah. Said brother died on 12th November, 2020
-) and his death certificate

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- 1 TP/251/2024) is annexed to the petition as EX-F. Dr. Bharat Shah died
) leaving behind three sons namely Dr. Sanjay Shah, Dr.
) Saurabh Shah and Anand Shah - petitioner herein.
) Consent Affidavits of Sanjay Shah dated 25th April, 2024
) and Dr. Saurabh Shah dated 23rd April, 2024 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 10 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. Affidavit of service dated 4th March,
) 2024. Notice to collector has been sent.
)
)
) 7. The petitioner has filed the Affidavit of Madhu
) Dinesh Gandhi dated 3rd November, 2023, 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 papers in presence of this witness 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. Ld. Advocate for the petitioner has filed
) Additional Affidavit of Madhu Dinesh Gandhi dated 26th
) April, 2024 and deposed that the testator had executed his
) last Will and Testament on 20th January 2017, which was
) in English language. He read over and explained the
) contents of his said last Will and Testament in Gujarati
) language to the testator and upon understood the contents
) thereof, he subscribed and put signature on the said last
) Will and Testament in Gujarati script, as stated in his
) affidavit dated 3rd November, 2023. Hence, there is
) sufficient compliance of Rule 419 of the Bombay High

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Court (Original Side) Rules, 1980.

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Will is duly notarized before R. A. Alate, Notary Greater Mumbai. Attesting witness further deposed that at the time of execution of 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. The Ld. Advocate for the petitioner submitted that properties available to the testator at his time are mentioned in the schedule of the petition.

9. Petitioner has executed the Administration Bond, 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.

06.05.2024

FIRST ASSISTANT MASTER