

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 15th July, 2024

CALLED FOR COMPLIANCE :

23 TP/352/2024) Ms. Neha Hande, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being executor named
) under the Will executed by Pramila Rajnikant Shah
) (herein after the same is referred to as “Testatrix”), for
) grant of a Letters of Administration with a authenticated
) copy of the Probate of the Last Will annexed. Testatrix
) said to have died on 14.04.2017 at Illinois, U.S.A..
) Petitioner has 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 Annexure -
) A1), Will, petitioner's oath, affidavits of legal heirs of
) the testatrix.
)
) 2. The petitioner has explained the delay in para No.16
) of the petition as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The petitioner herein Parul Khandwala, is named as
) Executor in the Will of testatrix, which was executed by
) her on 22.12.2016. The Circuit Court of Cook County
) Illinois, County Department, Probate Division issued a
) Probate dated 14.05.2019, to the Petitioner as Executrix.
) Hence, petition is tenable.
)
) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at Illinois,
) USA on 22.12.2016, in English language. Ld. Advocate
) for petitioner has filed authenticated copy of Will dated
) 22.12.2016, which was duly authenticated by Dorothy
) Brown, Deputy Clerk of Circuit Court of Cook County
) Illinois and granted by Circuit Court of Cook County
) Illinois, County Department, Probate Division. Ld.
) Advocate for the petitioner submits that said
) authenticated copy 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.2

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Office to confirm.

5. Petitioner states that parents of testatrix were predeceased to her and testatrix was survived by legal heirs shown in the paragraph No. 12 of the petition,

as per the provisions of the Hindu Succession Act, 1956. Husband of the testatrix expired on 24.09.2011 at Mumbai. His death certificate is annexed to the petition at Exh. 'H'. Testatrix died leaving behind two daughters and two sons. Two daughters namely Parul Dushyant Khandwala – petitioner herein, Sonal Paresh Joshi and two sons namely Naimish Shah, Mehul Shah. Consent Affidavits of Mehul Shah and Sonal Paresh Joshi both dated 30.05.2023 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 testatrix. They have waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 12 of the petition.

6. Ld. Advocate for the Petitioner submits that citation was dispatched to Naimish Shah, legal heir of testatrix through Sheriff's office, Bombay. However, no postal acknowledgment was received by Postal Department. Hence, Sheriff's Office lodged a complaint with the Postal Department. Thereafter, Sheriff's Office had received reply dated 04.05.2024 from Postal Department.

7. The postal department has confirmed that the packet sent to said Naimish Shah by registered A. D. was delivered to him on 18.04.2024. Copies of the postal receipt and reply dated 04.05.2024, received from the Postal Department. Affidavit of Service filed by S. J. Dhamapurkar, Bailiff working in Sheriff's Office dated 09.05.2024 is on record. Hence, said Naimish Shah was served by Sheriff as per Rule 399 of the Bombay High Court (Original Side) Rules, 1980.

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) However, he had not resist the petition till date. Hence,
) this petition is uncontested petition.
)

) 8. 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 08.04.2024. Notice to collector
) has been sent.
)

) 9. Properties mentioned in the schedule 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 her
) death time are mentioned in the Schedule - I of the
) petition.
)

) Ld. Advocate for the petitioner submits that as
) mentioned in the Will, ‘ARTICLE THIRD – gift of
) tangible personal property’ which reads as under :
)

) “I give all my tangible personal property not
) otherwise disposed of to my daughter, PARUL
) KHANDWALA, if she survives me, or, if she
) predeceases me, to such of her children, SHALIN
) and SONALI, as survive me in substantially equal
) shares or otherwise as they may agree”.
)

) This petition is filed by Parul Khandwala.
)

) 10. The Will is executed by testatrix on 22.12.2006 in
) English language and which was duly authenticated by
) Dorothy Brown, Deputy Clerk of the Circuit Court,
) Cook County, Illinois and granted by Circuit Court of
) Cook County, Illionois, County Department, Probate
) Division. The said probate was granted on 14.05.2019
) and copy of Probate is annexed to the petition at Exhibit
) – “C”. Hence, the Will is already proved before the
) Foreign Court and its authenticated copy of Probate is
) on record.
)

) 11. Petitioner has executed the administration Bond
) dated 8th March, 2024 and 28th March, 2024, in the
) prescribed format. Hence, following order:
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ORDER

1) Petition is granted.

2) Office to issue Letters of Administration with an authenticated copy of the Will annexed as per Section 228 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.

15.07.2024**FIRST ASSISTANT MASTER**