

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

CALLED FOR COMPLIANCE :

28 TP/360/2024) Mr. Ganesh L. Kale, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being Sole legatee
) named under the Will executed by Snehalata Arvind
) Nadkarni (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 11th August,
) 2023 at Katrap, Badalapur, Thane. 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-A-1), Will, petitioner's
) oath.
)
) 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. Testatrix has appointed Tanaji Vishu Jadhav, as Sole
) Executor of Will. The executor has relinquished his
) executorship by filing an Affidavit dated 29th September,
) 2023. Hence, the petitioner being the Sole legatee
) named under the Will, is entitled to present the petition.
)
) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed on 5th
) April, 2023 at Mumbai, 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 parents of testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No.8 of the petition, as per
) the provisions of the Hindu Succession Act, 1956.
) Husband of testatrix namely Arvind Putappa Nadkarni
) died on 20th December, 2010. Parents of testatrix and
) parents of husband of testatrix predeceased to her.
) Testatrix had no issues from her wedlock. Testatrix and
) her husband had adopted2

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- 28 TP/360/2024) Sonali Arivnd Nadkarni @ Preeti Arvind Nadkarni
) (petitioner herein). Ld. Advocate for the petitioner has
) annexed all relevant documents to prove adoption of
) petitioner as a adopted daughter of testatrix. Petitioner
) has filed following documents to prove adoption :
-) A) Adoption deed dated 20th December, 1988,
) signed by the concerned parties i.e. Arvind
) Nadkarni, Snehalata Nadkarni and Shri
) Maheshwar Dattatray Wagle , Administrative
) officer , Prit Mandir.
-) B) Copy of Misc. Application No. 305/1988
) under Section 9(4) of Hindu Adoption and
) Maintainance Act, 1956 before Hon'ble District
) Judge, Pune.
-) C) Order passed By Hon'ble District Juge, Pune
) in Misc. Application No, 305/1998, dated 7th
) June, 1988 and 22nd July, 1988.
-) D) As per order passed by Extra Joint District
) Judge, pune had permitted Arvind Nadkarni,
) Snehalata Nadkarni to adopt female child
) minor Priti . Misc. Application has been granted
) and petitioner has been adopted as adopted
) daughter of testatrix and her husband.
-) The petitioner affirmed that there are no other legal
) heirs of the testatrix other than mentioned in paragraph
) 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
) Collector's office on 19th March, 2024. Notice to
) collector has been sent.
-) 7. The petitioner has filed the affidavits of Namdev
) Vitthal Kirte and Rohand Mangesh Karande both dated
) 29th September, 2023 are on record. They have filed
) Affidavit as per Form No.102 of the Bombay High
) Court (Original Side) Rules, 1980. Attesting Witnesses
) deposed that they were present and testatrix put her
) thumb impression on the Testament papers in3

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) 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
) Rules.

) 8. Ld. Advocate for the petitioner has filed Additional
) Affidavit of Namdev Vithal Kirte, dated 16th April, 2024
) as per order dated 10th April, 2024. As mentioned in
) paragraph No. 3 therein that Will was read over to
) testatrix and after she fully understood the contents of
) the Will, testatrix has put her thumb impression. Hence,
) there is sufficient compliance of Rule 419 of the Rules.
) Relevant paragraph No. 3 of the abovesaid Affidavit
) which was stated on oath by Attesting Witness is read as
) under :

) “That on the 05th Day of April, 2023, I was
) present together with Shri Rohan Mangesh
) Karande at the house i.e. Flat No. 3, First Floor,
) Mangalya Building, Samyukta Karwar CHS Ltd.,
) Plot No. 355, S. K. Bole Road, Dadar West
) Mumbai 400 028 and as we both were present,
) the said Will was read over to the testator before
) its execution and the testator understood at such
) time the contents thereof, and affixed on page No.
) 6 of the Will at the middle of the bottom her –
) LHTI, (Left-Hnad-Thumb-Impression) page No.
) 7 left-hand side at bottom, Left-Hand-Thumb
) Impression, at right-site on page No. 8 right-hand
) site bottom, Left Hand Thumb Impression, page
) No. 9 Left-hand site bottom Left Hand Thumb
) Impression, page No. 10 left hand site photograph
) and thumb impression at bottom of the photo and
) top of the photo. This Left Hand Thumb
) Impression, were written by the Officer of the
) Sub-Registrar Office, Mumbai – 4. Left Hand
) Thumb Impression were taken on the Will as the
) testator was aged and she was suffering from
) Parkinson and hence, she was unable to hold pen
) and unable to sign the document which is also
) stated in the medical certificate hence, her thumb

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impression affixed on the each page of4

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a Will. I say that she full understood the contents of the Will and she was of sound mind at the time of executing the Will”.

9. Attesting witness also stated on oath that at the time of execution of the Will, testatrix was of sound and disposing mind, memory and understanding. Will is duly registered on 5th ,April, 2023 under Sr. No. BBE4/5275/2023 before Joint Sub Registrar, Mumbai City No.4. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

10. Properties mentioned in the Schedule I of the petition are referred in the Will. The Ld. Advocate for the petitioner submitted that properties available to the testatrix at the time of her death are mentioned in the schedule- I of the petition.

11. As per requisition raised in order dated 10th April, 2024, requisition No.1 which reads as “In para 8 of the Will states that “My each relatives should give respect to my last desire and last Will” Advocate to explain other relatives”.

Ld. Advocate for the petitioner has filed affidavit of petitioner date 16th April 2024 and she stated on oath as follows :

“I say that in Will at para No. 8 used the term as “My each relative should give respect to my last desire and last Will” Other relatives means brother, sister and next-of-kin of the deceased who do not come in the ambit of Class I of Hindu Succession Act, 1956”.

12. As per requisition raised in order dated 10th April, 2024, requisition No.4 which reads as “Properties mentioned in the Will and not shown in schedule”.

Ld. Advocate for the petitioner has filed affidavit of petitioner date 16th April 2024 and she stated on oath as follows :

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“I say I did not mentioned the Bank names in
Schedule i.e. Bank of Maharashtra,5

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Dadar, Branch and Saraswat Bank, Worli Branch
accounts as these 2 accounts were closed during
the lifetime of the deceased and there is no
amount outstanding as debt”.

13. Petitioner has executed the Administration Bond
dated 7th March, 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.

18.04.2024

FIRST ASSISTANT MASTER