

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 24th July, 2024

CALLED FOR COMPLIANCE :

48 TP/362/2024) Mr. Hasan Mirchandani i/b. Shah Akash Paresh,
) Advocate for petitioner
)
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner No. 1 being legatee
) named under the Will and petitioner No. 2 natural
) guardian of one of the legatee named under the Will
) which was executed by Shyamsunder Sadashiv
) Palwankar (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 19.10.2020
) at Thane. Petitioners filed the copy of death certificates
) (which is annexed to petition as Exhibit-A), identity
) proof of the testator (which is annexed to petition as
) Exhibit-A1), 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 No. 1 is being legatee named
) under the Will and petitioner No. 2 natural guardian of
) the one of the legatee named under the Will. Hence,
) petition is tenable.
)
) 4. Petitioners stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 08.03.2017, in Marathi language. 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. Ld. Advocate for
) petitioner namely Akash Paresh Shah has filed Affidavit
) dated 18.06.2024. He deposed that he is familiar with
) the Marathi scripts, Marathi and English languages. The
) said Will has been explained to me by the petitioner
) No.1, have also read and understood the Will by him
) and after understanding the Will he has prepared2

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) the English translation of the Will. He further deposed
) that the said English translation is true and correct. This
) is in compliance with the order dated 10.01.2024
) passed by the Hon'ble Court in Testamentary Petition
) No. 1263 of 2023.

) 5. Petitioners states that parents and wife of testator
) were 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.
) Testator died leaving behind two sons namely Nilesh
) Palwankar – petitioner No. 1 and Manish Palwankar –
) petitioner No. 2 (being natural guardian of Shriya
) Manish Palwankar). Petitioners affirmed that there are
) no other legal heirs of the testator other than mentioned
) in para 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 notice
) board of the Collector's office on 05.04.2024. Notice to
) collector has been sent.

) 7. The petitioners have filed the Affidavits and of
) Pradip Vadilal Shah and Nipa Hitesh Surati both dated
) 12.10.2023, Attesting Witnesses to the Will, in the
) Form No.102 of the Bombay High Court (Original
) Side) Rules, 1980. Attesting witnesses deposed that
) they were present and testator signed on the Testament
) papers in 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 Bombay High Court (Original Side) Rules, 1980.
) Will is duly registered before Joint Sub-Registrar, Class
) II, Vasai No. 5 under registration No. 1226/2017. Ld.
) Advocate for petitioner has filed Additional Affidavits
) of Attesting Witnesses namely Nipa Hitesh Surati and
) Pradeep Vadilal Shah, both dated 17.07.2024 in support
) of execution of the Will. 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 on3

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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 petitioners submits that as mentioned in para 6 of the petition, which reads as under :

“That the Petitioners has truly set forth in Schedule No.I, hereto annexed and marked Exhibit “C”, all the property and credits which the deceased was possessed or or entitled to at the time of his death, which have or are likely to come to his hands”.

The Ld. Advocate for the petitioners submitted that properties available to the testator at the time of his death are mentioned in the Schedule – I of the petition.

9. As per Will, there are beneficiaries namely Atharva Nilesh Palwankar, Mihika Nilesh Palwankar, Shreya Manish Palwankar. Consent Affidavits of Mihika Nilesh Palwankar dated 12.10.2023 and 18.06.2024, Shreya Manish Palwankar dated 12.10.2023 and 18.06.2024, Atharva Nilesh Palwankar dated 12.10.2024 and Anuradha Nilesh Palvankar dated 16.07.2024 are on record. They have given their consents in the form of Affidavits, which are filed on the record by the petitioners and consented for the issuance of Letters of Administration with Will annexed in favour of the petitioners without justifying any surety in respect of their shares in the estate of the testator. They have waived the service of Citation.

21. Petitioners have executed the administration Bond dated 13th October, 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,4

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48 TP/362/2024) 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.

24.07.2024**FIRST ASSISTANT MASTER**