

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

CALLED FOR COMPLIANCE :

- 34 TP/395/2024) Mr. Amit Mishra a/w. Mr. Utkarsh Pawar i/b. M/s.
) Dhaval Vassanji and Associates, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Niranjana
) Narendra Pandya (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 21st August,
) 2022 at Maidstone, Kent, United Kingdom. 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, affidavits of legal heirs of the testatrix.
)
) 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 testatrix has not appointed executor to execute
) the Will. The petitioner being one of the legatees named
) under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at
) Maidstone, Kent, United Kingdom on 11th June, 2022, 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. Office to confirm.
)
) 5. Petitioner states that the husband of testatrix
) predeceased to her, who died on 17th April, 2004. Parents
) of husband of testatrix was 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. Testatrix died leaving
) behind two sons namely Asit N. Pandya, Ankur Pandya
) and married daughter namely Alpana Parasuram.
) Consent affidavits of Asist N. Pandya, Ankur Pandya ...2

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- 34 TP/395/2024) Alpana Parasuram all dated 30th September, 2023 are on
) record. They have given consents in 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
) 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 notice board of
) the Collector's office on 15th March, 2024. Notice to
) collector has been sent.
)
) 7. The petitioner has filed the affidavit of Shubra
) Kamat, one of Attesting Witness to the Will, in the Form
) No.102 of the Bombay High Court (Original Side) Rules,
) 1980. He deposed that he was present and testatrix
) signed on the Testament papers 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. Attesting Witness further
) deposed that the entire Will was read by the testatrix in
) presence of both of witnesses and thereafter, she
) subscribed her signature on the Will. Hence, there is
) sufficient compliance of the rule 419 of the Bombay
) High Court (Original Side) Rules, 1980. He further
) deposed that at the time of execution of the will testatrix
) 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 as well as in residuals clause of
) the Will. The Ld. Advocate for the petitioner submitted
) that properties available to the testatrix at his time her
) death are mentioned in the schedule I of the petition. ...3

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9. As per will para no. 4c, which reads as follows :

) “Once the FD’s mature INR 700,000 (Indian
) Rupees Seven Lac only) to my great grandson
) Master Advay Arnav Asit Pandya and it he is not
) a major till then, such amount should be held by
) his natural guardian for his benefit until he
) reaches the age of 18. Balance of the maturity
) amount from such FD’s should be given to my
) grandson Mr. Akshat Asit Pandya”.

) Ld. Advocate for the petitioner has filed consent
) Affidavit of father and natural guardian of Advay Arnav
) Pandya i.e. Arnav Asit Pandya dated 30th September,
) 2023. He has confirmed that he has received
) Rs.7,00,000/- (Seven Lakh Rupees) as per Will.

) 10. Ld. Advocate for the petitioner has filed Affidavit of
) petitioner dated 13th April, 2024 and stated that
) provisions of Section 228 of the Indian Succession Act,
) 1925, cannot be applied to the facts and circumstances of
) the present case.

) 11. Petitioner has executed the Administration Bond
) dated 4th 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.

15.04.2024

FIRST ASSISTANT MASTER

