

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 19th April, 2024

CALLED FOR COMPLIANCE :

26 TP/399/2024) Mr. S. U. Lakdwala a/w. Jyoti Badgujar, 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 Madho Sugnomal
) Masand (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 2nd July, 2021
) at Mumbai. 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-A-
) 1), Will, petitioner's oath, affidavits of legal heirs of the
) testator.
)
) 2. The testator has not appointed executor to execute the
) Will. The petitioner is the Sole Legatee named under the
) Will. Hence, petition is tenable.
)
) 3. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at Mumbai
) on 25th May, 2003, 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.
)
) 4. Petitioner states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No.8 of the petition, as per
) the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind widow namely Bharti M.
) Masand and four married daughters namely Jyoti Lalwani,
) Reshma P. Kishinchandani, Sangeeta S. Bhatia and Komal
) R. Punjabi. Joint Consent Affidavits of Jyoti Narain
) Lalwani, Reshma P. Kishinchandani, Sangeeta S. Bhatia
) and Komal R. Punjabi dated 13th November, 2023 is 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 favour2

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) 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 paragraph No.8 of the petition.

) 5. 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 15th March, 2024. Notice to Collector has been sent.
)

) 6. The petitioner has filed the Affidavit of Rajesh
) Kishen Punjabi dated 13th 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 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. He 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 on record to accept the execution of
) the Will and petitioner is succeeded to prove the execution
) of Will.
)

) 7. Properties mentioned in the schedule of the petition
) are referred in the Will. The Ld. Advocate for the
) petitioner submitted that as mentioned in paragraph no. 6
) of the petition , which read as under :

) "That the Petitioner has truly set forth in Schedule
) No. I, hereto annexed marked Exhibit "C", all the
) property and credits which the Deceased died
) possessed of or entitled to at the time of his death,
) which have or are likely to come to her hands. Rest
) all properties referred in the Will but not claimed in
) Schedule as they have been disposed of after
) execution of Will. The petitioner jointly owned a
) residential flat along with the Deceased at T-35,
) 701, 7th floor, Goden Height Tower Shastri Nagar,
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Near Lokhandwala Circle, Andheri (W),3

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Mumbai – 400 053”.

Hence, properties available to the testator at time of his death are mentioned in the schedule I of the of the petition. Ld. Advocate for the petitioner has submitted that immovable properties mentioned at Sr. No.1 of the petition was jointly owned by testator and petitioner and details thereof has been mentioned in Schedule I of the petition at Sr. No. 1.

8. Petitioner has executed the Administration Bond dated 26th 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.

4) Petitioner is senior citizen. Office to expedite issuance of grant.

19.04.2024

FIRST ASSISTANT MASTER