

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 9th May, 2024**

CALLED FOR COMPLIANCE :

46 TP/489/2024) Ms. Manasi Hirve i/b. Divekar and Co., Advocate for
) petitioner
)
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by
) Pandurang Ramrao Deshpande (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 31st August, 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 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 is one of the beneficiaries
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at Mumbai
) on 26th February, 2021, 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 testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 5 of the petition, as per
) the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind wife namely Kalpana
) Pandurang Deshpande, married daughter namely Dr.
) Anjali Manoj Swami and Dr. Ashwin Deshpade –
) petitioner herein. Consent affidavits Kalpana P.
) Deshpande and Anjali M. Swami both dated 04.11.2023
) are on record. They have given their consents in2

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)
) 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 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 para 5 of the petition.

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) 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 22.03.2024. Notice to collector
) has been sent.

)
) 7. The petitioner has filed the affidavit and additional
) affidavit of Anurag Seksaria dated 04.11.2023 and dated
) 08.05.2024, one of Attesting Witnesses 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. Will is
) duly registered before Joint Sub-Registrar, Mumbai-I
) under registration No. 1840/2021. Ld. Advocate for
) petitioner has filed Affidavit of Anurag Seksaria dated
) 08.05.2024 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
) on record to accept the execution of the Will and
) petitioner is succeeded to prove the execution of Will.

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) 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 as mentioned in para Nos. 7 and 8 of the petition,
) which reads as under :

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“7. That the Petitioner has truly set forth in Schedule-I, the property and credits which the said deceased died and possessed of or entitled to at the time of his death which is likely to come to his hands and the said Schedule-I is annexed and marked Exhibit “C”.

8. The property having address at Flat No. 6, Ground floor, 'B' Wing, Building No.B-21, 'Vastu Cooperative Housing Society Limited', Dewanand Sons Housing Enclave, Opposite Labh Complex, AmbadiRoad, Village Diwanman, Vasai Road (West), District Palghar- 401 202 15 self-occupied and fetching no rent. The said property is bequeathed to Dr. Anjali Manoj Swami nee Dr. Anjali Pandurang Deshpande, who has already sold the same”.

Hence, properties available to the testator at the time of his death are mentioned in the schedule of the petition.

Ld. Advocate for petitioner has filed Affidavit of petitioner dated 08.05.2024 and stated as follows on oath:

“3. I say that the said deceased left surviving as his only heirs or next of kin, according to the Hindu Succession Act, 1956, by which he was governed, the following persons:

i) Kapana Pandurang Deshpande (wife)

ii) Dr. Anjali Manoj Swami (daughter)

iii) Dr. Ashwin Pandurang Deshpande (son)

4. I say that Dr. Anjali Manoj Swami (nee Anjali Pandurang Deshpande) has her address at 1/22 Government Colony, K.K.Khadiye Marg, near Lala Lajpatrai College, Mahalaxmi, West, Mumbai – 400034.

5. I say that as per the Will dated 26th day of February, 2021, the property mentioned in paragraph 3, having address at Flat No.6, Ground Floor, 'B' wing, Building No. B-21,4

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Vastu Co-operative Housing Society Limited', Dewanand Sons Housing Enclave, opposite Labh Complex, Ambadi Road. Village Diwanman, Vasai Road (West), District Palghar-401202 is bequeathed to Dr. Anjali Manoj Swami (nee Anjali Panudrantg Deshpande) who has already sold the same House. Hence, has not been mentioned in the Schedule of the petition”.

9. Petitioner has executed the Administration Bond dated 29.03.2024, 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.

09.05.2024

FIRST ASSISTANT MASTER