

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 13th November, 2024

CALLED FOR COMPLIANCE :

24 TP/504/2024) Ms. Sampada Mahadik, Advocate for the Petitioners
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for the
) petitioners. This Petition is filed by the Petitioners
) namely Prashanthan Natarajan, Pramod Natarajan and
) Pradeep Natarajan being beneficiaries named under the
) Will executed by Natarajan Nanu alias Nanu Karthakunj
) (herein after the same is referred to as “Testator”), for
) grant of Letters of Administration with Will annexed.
) Testator said to have died on 22.08.2022 at Mumbai.
) Petitioners have filed the copy of death certificate
) (which is annexed to petition as Exhibit-A-1), identity
) proof of the testator (which is annexed to petition as
) Exhibit- A), Will, petitioner's oath.
)
) 2. The petitioners have filed the present petition within
) prescribed limit as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The petitioners have stated on oath in para No. 5 of
) the petition which reads as under :
)
) “That the Petitioners being the legatee named under the
) said Will and Testament of the deceased abovenamed
) and is entitled to the grant to the Letters of
) Administration with Will annexed in respect of the
) properties and credits left by the deceased at the time of
) his death. There are no Executor named in the said Will
) by the deceased and hence the Petitioners (being the
) legatee of the deceased) have applied for the Letters of
) Administration of the said Will”.
)
) There are no executors named in the said Will.
) Hence, Petitioners are being legatee / beneficiaries have
) filed the present Petition. The Petitioners are being
) beneficiaries named under the Will. Hence, Petition is
) tenable.
)
) 4. Petitioners have stated that the testator left behind
) his last Will and Testament which was duly 2

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executed at Mumbai on 06.11.2020 in English language. Ld. Advocate for Petitioner submits that the original Will No. 235 of 2024 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. Petitioners have stated that parents of testator were predeceased to him and testator was survived by legal heirs shown in the paragraph Nos. 8 and 9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testator died leaving behind his wife Radha Natarajan and three sons namely Prashanthan Natarajan – petitioner No 1, Pramod Natarajan – petitioner No. 2 and Pradeep Natarajan – petitioner No. 3 herein. Consent Affidavit of Radha Natarajan dated 02.02.2023 is on record. She has given her consents in the form of Affidavits, which is filed on the record by the petitioners 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. She has waived the service of Citation. The petitioners affirmed that there are no other legal heirs of the testator other than mentioned in para Nos. 8 and 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 22.04.2024. Notice to collector has been sent.

7. The Petitioners have filed the Affidavits of A. Murlidharan dated 05.12.2022 and Sunil Vargese dated 02.12.2022, both are being 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 registered3

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) before the Joint Sub-Registrar, Kurla No. 4 under
) registration No. KRL-4/III/10348/2020. 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
) Petitioners are 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 No. 6 of the petition,
) which reads as under :

) “That the Petitioners has truly set forth in
) Schedule-I hereto annexed and marked as Exhibit
) “E” all the properties and credits which the
) deceased was possessed of or entitled to at the time
) of his death, which have or are likely to come to
) the Petitioner’s hands”.

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

) 9. Ld. Advocate for petitioner submits that this matter
) is came on board before the Hon’ble Court on
) 27.09.2024. The matter has been moved before the
) Hon’ble Court for clarification of some sentences as
) written in para No. 1 of the Will. The Hon’ble Court
) has perused the petition, Affidavits and Consents
) Affidavits in presence of Testamentary Registrar
) (Mrs.R. V. Rane). Upon hearing and perusing records in
) presence of Testamentary Registrar (Mrs.R. V. Rane),
) the Hon’ble Court has directed the department to
) proceed with in accordance with the Laws and Rules.

) Ld. Advocate for Petitioners has filed Affidavits of
) all three petitioners all dated 08.11.2024, wherein they
) had stated that they have filed this petition in the
) capacity of as beneficiaries named under the Will for
) betterment of properties and to protect the properties
) from any damage and other encroachments as per Will.
) They also stated that they will take decisions for

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betterment and to protect the properties and4

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take care of their mother. They further stated on oath that all decisions will be taken alongwith their mother and brothers jointly for the acts and action to be taken for properties mentioned in the Will. They also undertakes that they will faithfully administer the properties and credits of the testator and in the way concerning his Will by paying debts (if any). Additional Affidavit of petitioners dated 08.11.2024 are on record and other relevant in Para Nos. 6, 8, 9 and 12, which reads as under :

“6. I say that Testator not appointed any Executor hence, Affidavit filed earlier if any not required. I further say that, the Affidavit filed by my Mother dated 29th June, 2024 for Executor by Tenure was filed by oversight as upon reading the Will, no Executor has been appointed by the deceased by naming Executor or by tenture and hence the Affidavit dated 29th June, 2024 to be withdrawn.

8. I say that, the cost of maintenance and betterment of properties will be borne by me jointly with my brothers.

9. I say that, my mother living separately and I am taking care of my mother and supports for her and I contribute for her day to day needs and medical expenses.

12. I say that, I will follow each and every terms and conditions as defined in the last Will and Testament of the deceased”.

Ld. Advocate for petitioner submits that as per Bombay High Court (Original Side) Rules, 1980, she has complied with all the office objections raised by the Registry viz. Administration Bond which is on record and Affidavit of Service filed by Rahul Ananda Vairal dated 06.05.2024 proving pasting of citation on the Notice board of the Hon’ble High Court and Collector’s Office. Office objections regarding Notice to Collector has been also complied with.

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Ld. Advocate for petitioner submits that as petitioner's have stated on oath in para No. 12 of their Affidavits that they will follow each and every terms and conditions as defined in the Will of the testator and hence, Letters of Administration with Will should be granted in favour of the petitioners. Statement made by the Ld. Advocate for petitioners is accepted.

10. Petitioner has executed the administration Bond dated 03.05.2024 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.

13.11.2024

FIRST ASSISTANT MASTER