

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

CALLED FOR COMPLIANCE :

31 TP/541/2024) Mr. Laxman Jain, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being son of testator
) and father of sole beneficiary named under the Will
) executed by Anopram Mavji Bhatt (herein after the
) same is referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 31.01.2006 at Mumbai. Petitioner has filed the
) copy of death certificate (which is annexed to petition
) as Exhibit-A), Will along with its official translation,
) petitioner's oath, Affidavits of legal heirs of the testator.
) Ld. Advocate for petitioner submits that petitioner
) stated on oath that he has not having any identification
) proof of testator in his possession. Therefore, petitioner
) has filed his own Affidavit dated 03.05.2024 wherein he
) has produced copy of Agreement dated 02.12.1977 for
) the purpose of flat which was mentioned in Schedule I
) of the petition, electricity of bill and maintenance Bill.
)
) 2. The petitioner has explained the delay in para No.
) 10 of the petition as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980(for short “Rules”).
)
) 3. Office has raised objection that ‘how the present
) petition is maintainable without any executor has been
) appointed under the subject Will’. As per order passed
) by the Hon’ble Court on 22.02.2024, the Hon’ble Court
) as per the reason mentioned in the order has decided
) that the objection raised by the department is
) sustainable and granted liberty to the petitioner to take
) such steps as available in law to peruse the remedy in
) respect of subject Will dated 15.03.2024.
)
) As per order passed on 27.02.2024 by the
) Additional Registrar (O.S.) / Additional Prothonotary
) and Senior Master, had permitted the Ld. Advocate for
) petitioner to convert the said petition into Letters of
) Administration with Will.2

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) Accordingly, Ld. Advocate for petitioner submits
) that he has carried out amendment on 12.03.2024, as
) per order dated 27.02.2024 passed by the Additional
) Registrar (O.S.) and converted this petition from
) Probate to Letters of Administration with Will.
) Petitioner has carried out amendment in para No. 5 of
) the petition and stated on oath that the testator has not
) appointed executor to execute the Will. The petitioner is
) being son of testator and father of sole beneficiary
) named under the Will.

) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 15.03.2004, in Gujarati language. Ld.
) Advocate for petitioner submits that its official
) translation is filed on the record. 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.

) 5. Petitioner states that parents 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, 1956.
) Father of testator namely Mavji Gagal Bhatt and mother
) of testator namely Godavari Mavji Bhatt predeceased to
) him. Wife of testator namely Muktabai (aka Muktaben)
) Anopram Bhatt died on 22.01.2004 and her death
) certificate is annexed to the petition as Exhibit – “D”.
) Testator died leaving behind his only son namely Pankaj
) A. Bhatt – petitioner herein. The petitioner affirmed
) that there are no other legal heirs of the testator other
) than mentioned in para No. 9 of the petition.

) 6. As per the order dated 25.06.2024 requisition has
) been raised “upon perusing the Will, it seems that the
) petitioner is not beneficiary under the Will but his son
) namely Jatin Pankaj Bhatt is sole beneficiary”. In view
) thereof, petition should have to be filed by Jatin P. Bhatt
) as sole beneficiary” Advocate to explain.

) As per order passed by the Hon’ble Court dated
23.08.2024, the Hon’ble Court has dispenses3

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)
) with the said objection as per para Nos. 4 and 5 of the
) order passed by the Hon'ble Court. The said para Nos. 4
) and 5 of order passed by the Hon'ble Court are reads as
) under :

) "4. Jatin Bhatt has filed an affidavit. It is
) affirmed that on account of his busy work
) schedule he could not file the petition for grant
) of Letters of Administration. The petitioner is
) the father of Jatin, the beneficiary. Jatin has no
) objection to the grant of Letters of
) Administration with the Will annexed, without
) service of citation upon him.

) 5. In view of the aforesaid affidavit and having
) regard to the fact that the petitioner is the son of
) the deceased and father of the sole beneficiary
) under the Will, the office objection deserves to
) be dispensed of".

) Ld. Advocate for petitioner submits that consent
) Affidavit of Jatin Bhatt dated 01.06.2024 is on record.
) He has given his no objections to grant grant Letters of
) Administration with Will.

) 7. 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 12.04.2024. Notice to
) collector has been sent.

) 8. The petitioner has filed the Affidavits of Suresh
) Narandas Raichura dated 09.10.2023 and Vinod
) Jaichand Vasa dated 07.10.2023, both are being
) Attesting Witnesses to the Will, in the Form No.102 of
) the Bombay High Court (Original Side) Rules, 1980.
) They 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. They further deposed that at the time
) of execution of the Will, testator was of sound and

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disposing mind, memory and understanding.4

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Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

9. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for petitioner submits that as mentioned in para No. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I hereto, annexed and marked Exhibit “C” all the properties and credits which the said deceased died possessed of or entitled to at the time of his death”.

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.

10. Petitioner has executed the Administration Bond dated 03.04.2024, 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.

19.09.2024

FIRST ASSISTANT MASTER