

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 6th May, 2024

CALLED FOR COMPLIANCE :

30 TP/637/2024) Mr. Nandkishor Supal i/b. Divya Shah 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 Sushila
) Sobhraj Asrani (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 23rd May,
) 2022 at Mumbai. 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. Testator has appointed Nand Mohandas Jaising as Sole
) Executor. The executor is reported to have been died on
) 23rd March, 2019 without proving the Will. His death
) certificate has been filed on the record as EX-C. Hence,
) the petitioner is 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 Mumbai
) on 12th December, 2009 in English language. The photo
) copy of 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. Ld. Advocate for the
) petitioner has submitted that as mentioned in Para No.3 of
) the petition, original Will is misplaced and has made due
) and diligent search for the original Will but could not find
) the same.
)
) 5. Petitioner states that parents of testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No.9 of the petition,2

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)
) as per the provisions of the Hindu Succession Act, 1956.
) Testatrix died as Spinster. Testatrix had three brothers
) namely Shivaldas Asrani, Lachhmandas S. Asrani and
) Kishin S. Asrani and had no sister. Testatrix brother
) namely Shivaldas Asrani died leaving behind four sons
) namely Prakash Asrani, Pradeep Asrani, Pramod Asrani,
) Pravin Asrani and only daughter namely Savita Wadhawa.
) Testatrix other brother namely Lachhmandas Asrani died
) leaving behind two sons Ajit Asrani, Umesh Asrani and
) no daughter. Testatrix brother Kishin Asrani died leaving
) behind one son namely Mahesh Asrani and daughter
) namely Lata Mukhi.
)

) 6. Consent Affidavits of Savita Wadhawa dated 8th
) October, 2023, Prakash Asrani dated 5th November, 2023,
) Pradeep Asrani dated 8th October, 2023, Pramod Asrani
) dated 8th October, 2023, Pravin Asrani dated 5th
) November, 2023, Ajit Asrani dated 13th November, 2023,
) Umesh Asrani dated 13th November, 2023, Mahesh
) Asrani dated 1st November, 2023 and Lata Mukhi dated
) 4th November, 2023 are 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 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 paragraph No. 9 of the petition.
)

) 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 8th April, 2024. Notice to
) collector has been sent.
)

) 8. The petitioner has filed the affidavit of Dr. Manoj
) Rohra dated 20th October, 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 testatrix signed on the
) Testament papers in presence of his and another witness.
) According to him, all additions and alteration,3

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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 notarized before Ashwin Mankodi. Attesting witness 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.

9. 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 No. 7 petition, which reads as follows :

“That the Petitioner has truly set forth in Schedule No. I, hereto annexed and marked Exhibit “D”, all the property and credits which the deceased expired possessed of or entitled to at the time of her death, which have or are likely to come to her hands.

a. That the movable properties viz. Accounts lying in Bank of India, Khar (W) Branch, Mumbai and Standard Chartered Bank, Bandra (W) Branch, Mumbai as referred in clause No. 9 of the said Will, have been duly closed and amounts lying in the said accounts are disposed of by the deceased during her lifetime and therefore the said two bank accounts do not form part of Schedule No. "I", hereto.

b. That the immovable property viz. Ownership Flat No. 103, Jaishankardeep, Plot No. 602B, 16th Road, T.P.S. III, Bandra (West), Mumbai – 400050, has been duly sold, transferred and assigned by the testator during her lifetime in favour of Dr. Sapna Surendran and therefore the said Flat do no form part of Schedule No. “I”, hereto.”

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

10. Petitioner has executed the administration Bond dated 23rd April, 2024 in the prescribed format.

Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with Will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioner until the original Will is produced 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.

06.05.2024

FIRST ASSISTANT MASTER