

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 3rd July, 2024

CALLED FOR DIRECTION :

28 TP/662/2024) Mr. S. U. Lakdawala 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 Maltibai Ramrao
) Sarnaik (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 17th August,
) 2011 at Washim, Dist. - Akola. 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 heir of the testatrix.
)
) 2. The petitioner has explained the delay paragraph
) No.10 of the petition as Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The testatrix has not appointed executor to execute the
) Will. The petitioner is being Sole legatee 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 and
) registered at Washim, Akola on 6th September 2009, which
) is in Marathi and English language. Ld. Advocate for
) petitioner submits that as mentioned in paragraph No. 3 of
) the petition 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 husband of testatrix was
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No.8 of the petition, as per
) the provisions of the Hindu Succession Act, 1956.
) Testatrix died leaving behind only son namely Kiranrao
) Ramrao Sarnaik and she had no daughter. Consent
) Affidavit of Kiranrao Ramrao Sarnaik dated 12th July,
)

CONTD....

2023 is on record.

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) He has given his consent in the form of Affidavit, which is
) 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. He
) has waived the service of Citation. The petitioner affirmed
) that there are no other legal heirs of the testatrix other than
) mentioned in paragraph no. 8 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 20th April, 2024. Notice to
) collector has been sent.
)

) 7. Ld. Advocate for the petitioner submits that petitioner
) has stated in the para Nos. 3 of the petition that Exh. "B"
) and "C" are Marathi Will and its translation respectively.
) However, this Will was in dual languages (i.e. Marathi and
) English). Testatrix have executed this Will on 6th
) September, 2009 and registered on 06.10.2009 at once. He
) further submits that in both the Will, testatrix has
) bequeathed same property to the Petitioner. But it has
) been observed that translated version of the Will is not
) exactly word to word translation of Marathi Will. Ld.
) Advocate for the petitioner has filed Affidavit of Attesting
) Witness of who was present at the time of execution of
) English Will, which was executed by testatrix lastly among
) both Wills. Also, Attesting Witness deposed that testatrix
) has put her signature at the foot of the testament papers in
) the Marathi and English character.
)

) 8. The petitioner has filed the Affidavit of Parmanand
) Bhumpal Trivedi dated 12.07.2003, one of Attesting
) Witness to the English 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, 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)
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Rules, 1980. Will is duly executed and registered before
Joint Sub-Registrar, Washim,3

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) Dist. Akola, under Registration No. 32400 of 2009.
) 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. Ld. Advocate for petitioner
) submitted that as mentioned in para 6 of the petition
) which reads as under :

) "That the petitioner have truly set forth in Schedule
) No. I, hereto annexed and marked as Exhibit – "D",
) all the property and credits which the deceased died
) possessed of or entitled to at the time of her death,
) which have or are likely to come to her hands".
)

) The Ld. Advocate for the petitioner submitted that
) properties available to the testatrix at the time of her death
) are mentioned in the Schedule - I of the petition.
)

) 10. Petitioner has executed the Administration Bond
) dated 24th 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 extent of English Will only 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.

03.07.2024

FIRST ASSISTANT MASTER

