

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 25th July, 2024

CALLED FOR COMPLIANCE :

42 TP/674/2024) Ms. Akansha Agarwal i/b. Manish Bohra, 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 Rao Ramanatha K. R.
) (herein after the same is referred to as “Testator”), for grant
) of Letters of Administration with Will annexed. Testator
) said to have died on 11.07.2005 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 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. The testator had appointed his wife namely Laxmi alias
) Lakshmi Ramanatha Rao as sole executrix of the Will.
) Said executrix died on 28.03.2023 without proving the
) Will of the testator. Her death certificate is annexed to the
) petition as Exhibit – “C”. Hence, the petitioner is being
) one of the legatees 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 23.11.2000, in English language. 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. 8 of the petition, as per the
) provisions of the Hindu Succession Act, 1956. Testator
) died leaving behind four married daughters and2

8. Properties mentioned in the schedule of the petition are referred in the Will as well as in residuals clause of the Will. Ld. Advocate for petitioner submits that3

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as mentioned in para 11 of the petition, which reads as under:

“The petitioner states that except the immovable and movable properties mentioned in Schedule I, the other movable properties as shown in the Schedule B annexed to the said Will had already been transferred / liquidated by the testator during his lifetime. Hence, the Petitioner has not shown the said movable properties in Schedule I annexed to the present petition though the same are mentioned by the testator in his last Will and testament”.

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 as mentioned in para 12 of the petition that the jewellery, ornaments things lying under the bank locker No. 39 has not been shown as the said locker was closed by testator’s wife during her lifetime. Para No. 12 of the petition reads as under :

The Petitioner further states that Bank Locker vide No.39 in Canara Bank Kalina Branch, Santacruz East, Mumbai – 400 029 as mentioned in paragraph No. 13 of the said Will, was standing in the name of the deceased jointly with his wife Laxmi alias Lakshmi Ramanatha Rao and daughter Mrs. Radha Ravishankar and after the death of the deceased all the jewellery, ornaments, things etc. lying under said Bank locker were already given to wife of the deceased thereafter, said locker was closed. Hence, the petitioner has not shown the jewellery, ornaments, things etc. lying under the said Bank locker in Schedule I annexed to the present petition though the same are mentioned by the deceased in his last Will and Testament”.

10. As per the Will, testator has bequeathed some of his properties as mentioned in para 6 of the petition, which reads as under :

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“That the petitioner has truly set forth in Schedule No.I, hereto annexed and marked as Exhibit “D”, all the property and credits which the deceased possessed of or entitled to at the time of his death which have or are likely to come to the hands of the Petitioner. So far as the petitioner has been able to ascertain or is aware there are no property and credits other than what are specified in Schedule – I annexed to the present petition.

10A. As per para No. 6 of the Will, testator has bequeathed flat No. 58 to Nandita Sham Rao, then minor granddaughter of testator.

The said Nandita Sham Rao, one of the beneficiaries as stated above is now major and filed her Consent Affidavit dated 06.10.2023. She has given her 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 in respect of her share in the estate of the testator. She has waived the service of Citation.

11. As per requisition No. 1 raised in the order dated 12.06.2024, which reads as “As mentioned in para No. 1 of the Will, Ld. Advocate for petitioner to verify whether deceased has left any other Codicil”.

Ld. Advocate for petitioner submits that he has filed Affidavit of petitioner dated 02.07.2024 and stated on oath that testator has made only Will and there is no codicil.

12. As per requisition No. 2 raised in the order dated 12.06.2024, which reads as “As per para Nos. 10 and 11 of the Will, Ld. Advocate for petitioner to explain, whether directions has been complied or not”.

Ld. Advocate for petitioner submits that he has filed Affidavit of petitioner dated 02.07.2024 and stated that as provided in paras 10 and 11 of the Will, testator's wish to appoint Mr. A. Ravishankar as an Arbitrator for the purpose of solving disputes and / or misunderstanding that may arise between the daughters of the testator and since there is no dispute and they have filed their5

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) consent Affidavits which are on record.

) 13. As per requisition No. 3 raised in the order dated
) 12.06.2024, which reads as “Properties mentioned in the
) Will and not shown in the Schedule”.

) Ld. Advocate for petitioner submits that he has filed
) Affidavit of petitioner dated 02.07.2024 and stated that
) there are certain properties found in the Schedule B of the
) Will which are not stated in the exhibit D of the petition
) since, the aforesaid properties have been dealt with and
) disposed of by the testator during his lifetime and are no
) longer available for distribution to the heirs. Hence, said
) properties are not mentioned in the Schedule - I annexed to
) the petition.

) 14. As per requisition No. 4 raised in the order dated
) 12.06.2024, which reads as “To provide type copy of the
) Will”.

) Ld. Advocate for petitioner has provided typed copy of
) the Will and the same has been also uploaded on the
) official portal of the Bombay High Court.

) 15. Petitioner has executed the Administration Bond
) dated 29.04.2024, 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

25.07.2024

FIRST ASSISTANT MASTER