

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 18th October, 2024**

CALLED FOR COMPLIANCE :

61 TP/4237/2024) Ms. Jannat Yadav, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being beneficiary
) named under the Will executed by Girija Mahadev
) Mainkar (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 21.12.2017
) 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- A1), Will, petitioner's oath, Affidavits of legal
) heirs of the testatrix.
)
) 2. The petitioner has explained the delay in para
) No.9(a) of the petition as per 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 beneficiary 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 31.12.2010, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1686 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. Petitioner states that husband of testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No. 6. of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testatrix died leaving behind one daughter and two
) sons. Testatrix one daughter namely Sunanda Mahadev
) Mainkar and two sons namely Deepak Mahadev
) Mainkar and Sanjay Mahadev Mainkar.2

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) Consent Affidavits of Sunanda Mahadev Mainkar,
) Deepak Mahadev Mainkar and Sanjay Mahadev
) Mainkar all dated 23.12.2022 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 para No. 6 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 21.09.2024. Notice to
) collector has been sent.
)

) 7. The petitioner has filed the Affidavits of T.
) Rajeshm and Sanjay Mahadev Maninkar both dated
) 23.12.2022 and Additional Affidavit of T. Rajeshm
) dated 16.10.2024, both the 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 testatrix 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. Attesting Witness (T. Rajeshm)
) deposed that Will was typed in English language had
) explained in Marathi language to the testatrix and then
) she put her thumb impression and signed the said Will
) in Marathi language. Hence, there is compliance of
) Rule 419 of the Bombay High Court (Original Side)
) Rules, 1980. Will is duly registered before the Joint
) Sub-Registrar, Kurla- III, under registration No. BDR-
) 13/III/125/2011. Attesting witness further deposed that
) at the time of execution of the Will, testatrix was of
) sound and disposing mind, memory and3

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

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) 8. Properties mentioned in the Schedule – I of the
) petition are referred in the Will. Ld. Advocate for
) petitioner submits that as mentioned in para No. 8 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 property and credits which
) the deceased died possessed of or entitled to at
) the time of his death, which have or are likely to
) come to the Petitioner’s hands. All property
) mentioned in Schedule – I are forming a part of
) Will”.

) 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.

) 9. Ld. Advocate for petitioner submits that property
) mentioned in Schedule-I of the petition has been
) bequeathed to MR. Anilkumar Rayanarsu Merugu –
) petitioner herein by testatrix. Testatrix’s all legal heirs
) have given their consents in favour of the petitioner.
) Hence, Letters of Administration with Will should be
) granted in favour of petitioner.

) 10. Petitioner has executed the Administration Bond
) dated 17.10.2024, 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.

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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.

18.10.2024**FIRST ASSISTANT MASTER**