

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 8th May, 2024**

CALLED FOR COMPLIANCE :

39 TP/841/2024) Ms. Shobhana Waghmare, Advocate for petitioner

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being Sole beneficiary
) named under the Will executed by Mangala Sadashiv
) Kumbhar (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 5th June,
) 2022 at Surat, Gujarat. 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. The testatrix has not appointed executor to execute
) the Will. The petitioner is being sole 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 29th August, 2018 in Marathi language. Ld. Advocate
) for the petitioner has filed her Affidavit dated 8th April,
) 2024 and deposed that she has filed the English
) Translation of the Marathi Will of the testatrix and
) certified that she is familiar with both the language i.e.
) Marathi and English languages and have knowledge of
) both the languages. She further deposed that the
) Translation on record at Exhibit B- 1, at page 34 in the
) Petition, is true and correct. Hence, there is sufficient
) compliance of order dated 10th January, 2024 passed by
) the Hon’ble Court in Testamentary Petition No. 1263 of
) 2023. 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.

CONTD....

- 2 -

39 TP/841/2024

5. Petitioner states that parents and husband of testatrix were predeceased to her and testatrix was survived by legal heirs shown in the paragraph No.9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testatrix died leaving behind two sons namely Yeshwant Kumbhar and Devendra Kumbhar. Consent Affidavits of Yeshwant Kumbhar dated 2nd November, 2023 and Devendra Kumbhar dated 8th 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 stated on oath that there are no other legal heirs of the testatrix other than mentioned in paragraph No. 9 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 3rd April, 2024. Notice to collector has been sent.

7. The petitioner has filed the affidavit of Amit Bhikaji Surve dated 2nd November, 2023, one of Attesting Witnesses 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, 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 registered before Joint Sub Registrar, Mumbai City No.2 under registration No. 10757/18. 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.

....3

CONTD...

– 3 –

39 TP/841/2024

8. Properties mentioned in the Schedule I of the petition are referred in the Will. The Ld. Advocate for the petitioner submitted that all properties and credits of which the testatrix died possessed or or entitled to at the time of her death, which were or are likely to come to her hands are mentioned in schedule-I of the petition.

9. Petitioner has executed the Administration Bond dated 4th May, 2024, in the prescribed format with documentary proof of the surety. 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.

08.05.2024

FIRST ASSISTANT MASTER