

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

CALLED FOR COMPLIANCE :

45 TP/1064/2024) Mr. Anil Bagwe, 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 Damodar Nathu
) Kadam herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 20th
) September, 2014 at Pune. 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-B), Will, petitioner's
) oath, affidavits of legal heirs of the testator.
)
) 2. The petitioner has explained the delay in paragraph
) No. 13 as per Rule 382 of the Bombay High Court
) (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The testator have appointed executors namely Sunil
) Raman Shingote and Rohidas Govind Yewale to execute
) the Will. They have filed their Joint Affidavit dated 17th
) July, 2023 and renounced their rights of executorship
) for filing probate. The petitioner is being beneficiary
) 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 6th June, 2012, 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 his wife namely Suman
) Damodar Kadam. Testator died leaving behind2

CONTD....

- 2 -

45 TP/1064/2024

) his only son namely Nitin Damodar Kadam - petitioner
) herein and two married daughters namely Neelam
) Mandar Karmarkar and Sharmila Dhanjay Salunkhe.
) Wife of the testator died on 25th September, 2021. Her
) death certificate is annexed to the petition as Exhibit -
) 'G'. Joint Consent Affidavits of Neelam Mandar
) Karmarkar and Sharmila Dhanjay Salunkhe dated 28th
) June, 2023 is on record. They have given their consents
) in 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 testator. They have
) waived the service of Citation. The petitioner affirmed
) that there are no other legal heirs of the testator other
) than mentioned in para 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 21st May, 2024. Notice
) to collector has been sent.

) 7. The petitioner has filed Joint Affidavit of Yashwant
) Laxman Atkari and Raman Baban Shingote, both are
) being 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 testator signed on the Testament 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. Will
) is duly notarized before P. K. Waghmare, Advocate and
) Notary on 6th June, 2012, under notary Serial no.
) 269/2012. Attesting Witness deposed that testatrix has
) requested them to read the each and every line. Testator
) had understood the each and every word in the said
) document (Will), which is he stated and confirmed
) same are correct. Attesting Witnesses further deposed
) that at the time of execution of the Will, testator was of

CONTD...

sound and disposing mind, memory and

.....3

45 TP/1064/2024

– 3 –

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

) 8. Properties mentioned in the Schedule of the petition
) are referred in the Will and residuary clause of the Will.
) Ld. Advocate for the petitioner submits that as
) mentioned in para no. 6, which reads as under :

) “That the Petitioner has truly set forth in the
) Schedule – I hereto annexed and marked
) EXHIBIT – “E” all the properties 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 his hands. It is further
) stated that so far as the Petitioner has been able
) to ascertain or is aware there are no properties
) and credits other than what are specified in the
) Schedule – I attached to the Petition”.

) 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. Petitioner has executed the Administration Bond
) dated 3rd May, 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