

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 29th August, 2024**

CALLED FOR COMPLIANCE :

16 TP/1081/2024) Mr. Jayant Wani, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by
) Kamladevi Anrajji Chopra (herein after the same is
) referred to as “Testatrix”), for grant of Letters of
) Administration with Will annexed. Testatrix said to
) have died on 20th June, 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-A-1), Will,
) petitioner's oath, Affidavits of legal heirs of the testatrix.
)
) 2. The petitioner has explained the delay in para No.
) 10 of the amended 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 one of the beneficiaries
) 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 15th December, 2014, 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 testatrix were
) 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.
) Husband of testatrix namely Anrajji Sagarmaji Chopra
) died on 31st August, 2013. Testatrix died leaving behind
) five daughters and two sons. Testatrix’s five daughters
) are namely Bhavana Ramesh Punamiya, Ranjan Ashok
) Kothari, Nirmala Shantilal Jain,2

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Hemalata Ashok Solanki and Prabhawati Ugamraj Punamiya. Testatrix's two sons are namely Bharatkumar Chopra and Abhaykumar Chopra - petitioner herein. Consent Affidavits of Bharatkumar Chopra, Bhavana Ramesh Punamiya, Ranjan Ashok Kothari, Nirmala Shantilal Jain, Hemalata Ashok Solanki and Prabhawati Ugamraj Punamiya all dated 25th September, 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 affirmed that there are no other legal heirs of the testatrix other than mentioned in para 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 30th April, 2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavits of Ashok Kapurchandji Kothari dated 25th September, 2023 and Ugamraj Javerchand Punamiya dated 8th August, 2024, both are being Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. They deposed that they were present and testatrix 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 Rules. Will is appeared to have been executed in a language other than the language known to the testatrix. Attesting witness (Ugamraj Javerchand Punamiya) deposed that the testatrix was not conversant with English language. She knew Hindi and Marwari language very well. Considering the language known to the testatrix before the process of execution took place, he interpreted and explained words to words the contents of the English version Will to the testatrix in Hindi and

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) again in Marwari language in the presence of Abhay Kumar Chopra and another witness. Testatrix acknowledged that she has fully and completely understood and satisfied with the interpretation of the contents of the said Will in Hindi and Marwari languages in presence of both of the witnesses. Hence, there is sufficient compliance of Rule 419 of the Bombay High Court (Original Side) Rules, 1980. Will is duly registered before Joint Sub-Registrar, Mumbai City, under Registration No. BBE/1/2086-/2015. 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.

) 8. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for the petitioner submits that as mentioned in para No. 6 of the petition, which reads as under :

) “That the Petitioner has truly set forth in Schedule I hereto annexed and marked as Exhibit “C”, all the properties and credits which the deceased possessed of or entitled to at the time of his death which are likely to come to petitioner’s hands.

) The except the properties mentioned in the Schedule hereto all other properties mentioned in the Schedule hereto all other properties referred in the Will such as fixed Deposits, with Banks Saving Bank A/c. No. 319102010077053, L.I.C. Policy and gold ornaments and jewellery etc. are not shown in the Schedule hereto as all of them are disposed of or transferred on the basis of nomination or joint names are on the basis of Will”.

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

) 9. As per Will, there are beneficiaries namely Lata Chopra - daughter-in-law of testatrix. She has filed her Consent Affidavit dated 25th September, 2023.4

10. As per requisition No. 1 raised in order dated 27th June, 2024, which reads as “Since the present petition is filed for Letters of Administration with Will hence, please check prayer clause of petition”.

11. As per requisition No. 2 raised in order dated 27th June, 2024, which reads as “As per Will, there are beneficiaries. Hence, file Consent Affidavits of the said beneficiaries.

12. As per requisition No. 3 raised in order dated 27th June, 2024, which reads as “To comply with the provisions of rules 383 and 419 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for the petitioner has filed Affidavit of Attesting Witness namely Ugamraj Javerchand Punamiya dated 8th August, 2024 in support of executions of Will.

13. As per requisition No. 4 raised in order dated 27th June, 2024, which reads as “To check the shares mentioned in the Schedule-I annexed to the petition”.

Ld. Advocate for the petitioner has carried out corrections on 8th August, 2024 and complied with the same.

14. As per requisition No. 5 raised in order dated 27th June, 2024, which reads as “To check document annexed to the petition at page Nos. 41 and 42”.5

15. As per requisition No. 6 raised in order dated 27th June, 2024, which reads as “Properties mentioned in the Will and not shown in the Schedule”

16. As per requisition No. 7 raised in order dated 27th June, 2024, which reads as “To check capacity of the petitioner”.

17. 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.

29.08.2024

FIRST ASSISTANT MASTER