

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 16th July, 2024**

CALLED FOR COMPLIANCE :

26 TP/1124/2024) Mr. Rahul R. Bothra, Advocate for Petitioner

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-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
-) This petition is filed by petitioner, being sole legatee
-) named under the Will executed by Lala Shidu Davare
-) (herein after the same is referred to as “Testator”), for
-) grant of Letters of Administration with Will annexed.
-) Testator said to have died on 15th June, 2016 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,
-)
-) 2. The petitioner has explained the delay in para 10 of
-) the petition as per Rule 382 of the Bombay High Court
-) (Original Side) Rule, 1980 (for short “Rules”).
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-) 3. The testator has not appointed executor to execute
-) the Will. The petitioner is being sole legatee named
-) under the Will. Hence, petition is tenable.
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-) 4. Petitioner stated that the testator left behind his last
-) Will and Testament which was duly executed at Mumbai
-) on 18th October, 2011 in Marathi 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. Ld. Advocate for
-) petitioner has filed Affidavt dated 03.07.2024 and
-) deposed that he can read, write and understand Marathi
-) language and its translation to the English language. He
-) further deposed that he had knowledge of both
-) languages namely English and Marathi languages.
-) Hence, translation is annexed is true and correct. This is
-) in compliance of order dated 10.01.2024 in TP No. 1263
-) of 2023 passed by the Hon’ble Court.
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-) 5. Petitioner states that parents of testator were
-) predeceased to him 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, 1956.2

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Wife of the testator namely Akkatai Lala Daware died on 14.01.2021 and her death certificate is annexed to the petition at Exhibit "E". Testator died issue-less. Testator had only brother namely Baburao Sidhu Daware and no sister. Said Baburao Daware died leaving behind his only son namely Bharat Baburao Daware. Said Baburao Daware has no daughter. Consent Affidavit of Bharat Baburao Daware dated 08.12.2023 is on record. He has given his 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 his share in the estate of the testator. He has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testator other than mentioned in para 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 04.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit and Additional Affidavit of Gautam Tukaram Kamble dated 08.12.2023 and dated 05.07.2024, 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 testator put his thumb impression 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 notarised before B. R. Dube, Advocate and Notary, Government of India under registration No. 5684. Attesting witness further deposed that at the time of execution of the Will, testator 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.

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8. Properties mentioned in the schedule of the petition are referred in the Will as well as in residuals clause of the Will. The Ld. Advocate for the petitioner submitted that properties available to the testator at his time are mentioned in the schedule of the petition.

9. Petitioner has executed the administration Bond dated 8th 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.

15.07.2024

FIRST ASSISTANT MASTER