

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 3rd July, 2024

CALLED FOR COMPLIANCE :

30 TP/1143/2024) Ms. Archana Patil i/b. Sujata Babar, Advocate for
) petitioner
)
) -
) **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 Savalaram Sakharam
) Tayshete (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 29.042021
) at Mumbai. Petitioner filed the copy of death
) certificates (which is annexed to petition as Exhibit- A),
) identity proof of the testator (which is annexed to
) petition as Exhibit-A1), Will, petitioner's oath,
) affidavits of legal heirs of the testator.
)
) 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 testator has not appointed executor to execute
) the Will. The petitioner is being the sole legatee 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 26.09.2017, 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. 9 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind wife namely Sunanda
) Savalaram Tayshete, two sons Sanjay S. Tayshete and
) Govind S. Tayshete. The petitioner affirmed that there
) are no other legal heirs of the testator2

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) other than mentioned in para 9 of the petition.

) 6. Ld. Advocate for the petitioner had transmitted the
) packets containing duplicate citation to Sunanda
) Savalaram Tayshete, Sanjay Savalaram Tayshete and
) Govind Savalaram Tayshete. Packet sent to Sunanda
) Tayshete had been returned back with postal remark
) 'Refused' and packets sent to Sanjay Tayshete and
) Govind Tayshete returned back with remarks
) 'Unclaimed'. Ld. Advocate for petitioner submits that
) since packets to the non-consenting legal heirs have
) been dispatched and the same have been returned back
) with remarks 'refused' and 'unclaimed', which is good
) service. They have not resist the petition till date.
) Hence, petition is uncontested.

) 7. 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 05.03.2024. Notice to
) collector has been sent.

) 8. The petitioner has filed the Affidavits of Vinayak
) Jyotiba Phadake dated 28.11.2023, 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
) testator 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. Attesting
) Witness deposed that both the Attesting Witnesses
) alongwith Will, they went together at the Clinic of Dr.
) Pradeep S. Yesaji, Kalachowki, Mumbai-33 and
) thereof, Dr. Pradeep Yesaji, examined and explained to
) the testator, contents of the Will in Marathi language.
) Also, issued 'doctor certificate' dated 26.09.2017.
) Hence, there is compliance of rule 419 of the Bombay
) High Court (Original Side) Rules, 1980. Attesting
) witness further deposed that at the time of execution of
) the Will, testator was of sound and3

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)
) 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.

) 9. Properties mentioned in the schedule of the petition
) are referred in the Will. 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.

) 10. Petitioner has executed the Administration Bond
) dated 25.05.2024, 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
)

01.0.7.2024

FIRST ASSISTANT MASTER