

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 27th June, 2024**

CALLED FOR COMPLIANCE :

12 TP/1155/2024) Ms. Raksha Tanna, 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 Pratyag Bodhanand
) Sarasvati Swami (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**, 2020 at U.S.A.. 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, affidavits
) of legal heirs of the testator.
)
) 2. The petitioner has explained the delay in para 12 of
) the petition 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 sole 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 Surat,
) Gujarath on 17th February, 2020, in English language.
) Ld. Advocate for petitioner submits that the original
) copy of the 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. 5 of the petition, as per
) the provisions of the Hindu Succession Act, 1956.
) Testator died as bachelor. Testator died leaving behind
) two sisters namely Swamini Vibhavananda Saraswati –
) petitioner herein and Varsha Santosh Kumar Das.
) Testator had no children adopted or otherwie. Consent
) Affidavit of Varsha Santosh Kumar Das dated
) 11.12.2023 is on record.2

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) She has given her 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 her share in the estate
) of the testator. She has waived the service of Citation.
) The petitioner affirmed that there are no other legal heirs
) of the testator other than mentioned in para 5 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 12.06.2024. Notice to collector
) has been sent.

) 7. The petitioner has filed the Affidavits of Dipti
) Shodhankumar Bumia and Dave Hardik Ramyaketu both
) dated 14.12.2023, 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 papers 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 registered before Sub-Registrar of S.R.O.-Surat-1
) City, Athava undee registration No. SRT/1/ATV-
) 2681/2020. They 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.

) 8. Properties mentioned in the Schedule of the petition
) are referred in the Will as well as in residuals clause of
) the Will. Ld. Advocate for petitioner submitted that as
) mentioned in para 6 of the petition which reads as under:

) "That the petitioner has truly set forth in the
) Schedule No. I, hereto annexed and marked as
) Exhibit "C", all the property and credits3

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) which the deceased died possessed of or entitled to
) at the time of his death, which have or are likely to
) come to her hands. That so far as the petitioner has
) been able to ascertain or is aware, there is no
) property and credits other than what is specified in
) the Schedule No. I attached to this 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 05.06.2024, 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
)

27.06.2024

FIRST ASSISTANT MASTER

Note : This order is modified as per order dated 15.07.2024