

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 15th July, 2024

CALLED FOR COMPLIANCE :

27 TP/1192/2024) Ms. Rasika Pawar, Advocate for petitioner

-)
-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
-) This petition is filed by petitioner, being one of the
-) legatees named under the Will executed by Sudha
-) Harishchandra Gadkar (herein after the same is referred
-) to as “Testatrix), for grant of Letters of Administration
-) with Will annexed. Testatrix said to have died on 8th
-) March, 2023 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, affidavits of legal heirs of the testatrix.
-)
-) 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 testatrix has not appointed executor to execute
-) the Will. The petitioner is being one of the legatees
-) 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 7th December, 2016 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. 10 of the petition, as
-) per the provisions of the Hindu Succession Act, 1956.
-) Husband of the testatrix predeceased to her. Testatrix
-) died leaving behind one son namely Manojkumar H.
-) Gadkar – petitioner herein and only married daughter
-) namely Aparna Yogesh Pednekar. Consent Affidavit of
-) Aparna Yogesh Pednekar dated 25.10.2023 is2

CONTD....

- 2 -

27 TP/1192/2024

) on record. 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 testatrix. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 10 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 07.05.2024. Notice to collector has been sent.

) 7. The petitioner has filed the Affidavit and Additional Affidavit of Navin Narayan Halgekar dated 25.10.2023 and 08.07.2024 respectively, one of Attesting Witness 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 testatrix 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 testatrix was well educated and working woman with Mumbai Municipal Corporation and she is well conversant with English language. Also, she can read and write English language. Will is duly registered before the Joint Sub-Registrar, Borivali No. 6, under registration No. 11683/2016. 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. As per Will, there are beneficiaries and the said beneficiaries are namely Alpa Manojkumar Gadkar, Priti Dhiraj Gadkar, Vasudha Lishoy,3

CONTD....

– 3 –

27 TP/1192/2024

) Liva Lishoy, Laysha Lishoy, Prashant Vengurlekar. The
) said beneficiaries have filed their Joint Consent
) Affidavit dated 08.07.2024, which is on record. Ld.
) Advocate for petitioner submits that among all
) beneficiaries three of them namely Aarna Manojkumar
) Gadkar, Liva Lishoy, Laiysha Lishoy are minors.
) Therefore, Consent Affidavit has been signed by their
) natural guardian namely Alpa Manojkumar Gadkar and
) Vasudha Lishoy respectively. They have given their
) consents in the form of Affidavit, 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.

) 9. Properties mentioned in the schedule of the petition
) are referred in the Will. Ld. Advocate for petitioner
) submits that as mentioned in para 7 of the petition,
) which reads as under :

) “That the Petitioner has truly set forth in Schedule
) No.I hereto annexed and marked “Exhibit C” the
) property and credits which the deceased died
) possessed of or entitled to at the time of her death
) which have or are likely to come to his hands”.

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

) 10. Petitioner has executed the administration Bond
) dated 2nd June, 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.

.....4

CONTD....

– 4 –

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27 TP/1192/2024	)	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**