

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 14th August, 2024

CALLED FOR COMPLIANCE :

21 TP/1193/2024) Mr. Rahul R. Bothra, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioners.
) This petition is filed by petitioners being legatees named
) under the Will executed by Natesan Rajgopal (herein
) after the same is referred to as “Testator), for grant of
) Letters of Administration with Will annexed. Testator
) said to have died on 10th September, 2022 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
) 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. Testator has appointed Venkataraman
) Krishnaswami as sole Executor. The said executor is
) reported to have been died on 23.01.2023, without
) proving the Will. His death certificate has been filed on
) the record and copy of which annexed to the petition as
) Exhibit - “C”. Hence, the petitioners are being legatees
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioners stated that the testator left behind his last
) Will and Testament which was duly executed at Mumbai
) on 21st January, 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. Petitioners states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 11 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Wife of the testator predeceased to him. Testator died
) leaving behind three married daughters2

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)
) namely Priya Nateshkumar - Petitioner No. 1 herein,
) Pushpa Krishnaswami – Petitioner No. 2 herein and
) Nithya Karthik – petitioner No.3 herein and had no son.
) The petitioner affirmed that there are no other legal
) heirs of the testator other than mentioned in para 11 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 03.05.2024. Notice to
) collector has been sent.
)

) 7. The petitioner has filed the Affidavit and Additional
) Affidavits of Sankaran Muthu Swamy dated 09.01.2024
) and 10.07.2024 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 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. Will is duly registered before Sub-
) Registrar, Kurla No. 6 under registration No. KRL-4-
) 649 of 2016. 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.
)

) 8. Properties mentioned in the schedule of the petition
) are referred in the Will as well as in residuals clause of
) the Will. As mentioned in paragraph No. 7 of the
) petition, which reads as follows :-
)

) "That the Petitioner's have truly set forth in
) Schedule-I, hereto annexed and marked as
) EXHIBIT "D" are all the property and credits
) which the Deceased died possessed of or entitled to
) at the time of his death, which have or are likely to
) come to their hands so far as the3

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)
) petitioner's have been able to ascertain or is aware,
) there are no property and credits other than what
) are specified in the schedule attached to the
) 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. As per requisition No. 1 raised in the order dated
) 27.06.2024 which reads as “To comply with the provisions
) of rule 383 of the Bombay High Court (Original Side) Rules,
) 1980”

) Ld. Advocate for petitioner has filed Affidavit of
) Attesting Witness namely Sankaran Muthu Swamy
) dated 10.07.2024 in support of execution of the Will.

) 10. As per requisition No. 2 raised in the order dated
) 27.06.2024 which reads as “To file consent Affidavit of
) beneficiaries named under the Will”

) Ld. Advocate for the petitioner has filed affidavit of
) Gomati Subramanian dated 10th July, 2024. She has
) given consent in favour petitioners without justifying
) any share in the estate of testator. She waived service of
) citation.

) Also, Ld. Advocate for petitioner has filed Affidavits of
) two beneficiaries namely Nova Manikaratinam Nadar
) and Sharayu Tanaji Ghone, both dated 23.07.2024. 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
) testator. They have waived the service of Citation.

) Moreover, Petitioners have filed Administrators oath
) dated 9th January, 2024 and given undertakings which
) includes legacies as per Will as follows :-

) “We shall faithfully administer the property and
) credits of the said deceased and in any way
) concerning his Will by paying his debts and then the
) legacies therein bequeathed so far as the said assets
) will extend, and that We shall make and4

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)
) exhibit a full and true inventory of the said property
) and credits in this Hon'ble Court within six months
) from the date of the grant to be made to us or within
) such further time as the said Court may from time
) to time appoint, and also render a true account of
) our administration to this Hon'ble Court within one
) year from the same date or within such further time
) as the said Court may from time to time appoint.
)

) We shall and credits in this Hon'ble Court within
) six months from the date of the grant to be made to
) us or within such further time as the said Court may
) from time to time appoint, and also render a true
) account of our administration to this Hon'ble Court
) within one year.”
)

) 10. Ld. Advocate for the petitioner submits that in the
) will there are some nominees and life assured names
) mentioned namely Anahita Karthik, Rajeev
) Nateshkumar, Divija Krishnaswami and Neeraja
) Krishnaswami. Since, said movables are already been
) disposed off/transferred/distributed and also mentioned
) in Schedule-I of the petition. Therefore, there consent
) affidavits are not necessary.
)

) 11. Petitioner has executed the administration Bond
) dated 03.05.2024, 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.
)

14.08.2024

FIRST ASSISTANT MASTER

