

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 12th August, 2024

CALLED FOR COMPLIANCE :

39 TP/1360/2024) Mr. Prabhu Velar i/b. Ashwin Ankhad and Associates,
) Advocate for petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being legatee named
) under the Will executed by Dipti Gautam Doctor
) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 25.06.2022 at Gujarat.
) Petitioner filed the copy of death certificate (which is
) annexed to petition as Exhibit- A), identity proof of the
) testatrix (which is annexed to petition as Exhibit-A1),
) Will along with its official translation, 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 legatee 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
) Pardi, Gujarat on 19.08.2019, in Gujarati language. Its
) official translation is filed on the record. 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 husband of testatrix
) were predeceased to her and testatrix was survived by
) legal heirs shown in the paragraph No. 8 of the petition,
) as per the provisions of the Hindu Succession Act,
) 1956. Husband of testatrix namely Gautam Diwanbabu
) Doctor died on 26.06.2006 and his death certificate is
) annexed Exhibit – “D”.
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) Testatrix has one daughter namely Sucheta Gautam
) Doctor – petitioner herein and only son namely Suketu
) Gautam Doctor. Said son of testatrix predeceased to her
) and died on 01.04.2017 and his death certificate
) annexed to the petition at Exhibit – “F”. Said Suketu
) Doctor was married with Ridhima Sunil Juneja and
) subsequently, he took divorce from his wife. Copy of
) Divorce Decree is annexed to the petition at Exhibit –
) “E”. There are no children born out from the said
) wedlock. The petitioner affirmed that there are no other
) legal heirs of the testatrix other than mentioned in para
) No. 8 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 13.05.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Ashish
) Bhupendra Savani dated 12.12.2023, 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. Will is duly registered
) before the Joint Sub-Registrar, Andheri No. 7, under
) registration No. PRD/1843/2019. 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. 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 submits as
) mentioned in para No. 6 of the petition, which reads as
) under :
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“That the Petitioner has truly set forth in Schedule No.I hereto annexed and marked Exhibit “C” all 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 hands of the petitioner. So far as the Petitioner has 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 testatrix at the time of her death are mentioned in the Schedule – I of the petition.

9. As per requisition No. 1 raised in the order dated 01.07.2024, which reads as “To file copy of divorce decree of Suketu Doctor”

Ld. Advocate for petitioner submits that marriage between Suketu Doctor dissolved by consent under Section 13-B of the Hindu Marriage Act, 1955 and divorce decree has been annexed to the petition as Exhibit “E” dated 07.11.2015.

10. As per requisition No. 2 raised in the order dated 01.07.2024, which reads as “As per Will, there are beneficiaries. Hence, file consent Affidavits of the said beneficiaries”.

As per the condition of Will, if testatrix only daughter namely Sucheta Gautam Doctor did not get marry then testatrix’s nephew namely Kalpesh Navnit Somaiya and niece namely Parinda Navnit Somaiya are beneficiaries. Petitioner herein is unmarried. Therefore, Ld. Advocate for petitioner has filed Consent Affidavits of Kalpesh Navnit Somaiya and Parinda Navnit Somaiya both dated 01.07.2024, which are on record. They have given their consents in the form of Affidavits, 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.

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11. As per requisition No. 3 raised in the order dated 01.07.2024, which reads as “To check capacity of the petitioner”.

Ld. Advocate for petitioner has carried out corrections and corrected the capacity of the petitioner as ‘legatee’.

12. As per requisition No. 4 raised in the order dated 01.07.2024, which reads as “Properties mentioned in the Will and not shown in the Schedule”.

As mentioned in para No. 6 of the petition that Petitioner has 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

Regarding locker, Ld. Advocate for petitioner has filed Affidavit of petitioner dated 07.07.2024 and stated on oath that the locker mentioned in the Will was opened after the death of the testatrix and contents of the said lockers have been received by her. She further submits that there was no other Will found in the said locker.

13. Petitioner has executed the Administration Bond dated 16.05.2024 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.

12.08.2024

FIRST ASSISTANT MASTER

