

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 6th August, 2024

CALLED FOR COMPLIANCE :

24 TP/1375/2024) Ms. Pushpa Thapa, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by R.
) Sundari Raman Iyer (herein after the same is referred to
) as “Testatrix”), for grant of Letters of Administration
) with Will annexed. Testatrix said to have died on
) 17.06.2002 at Mumbai. Petitioner filed the copy of
) death certificate (which is annexed to petition as
) Exhibit-A), Will, petitioner's oath, Affidavits of legal
) heirs of the testatrix. Petitioner has filed affidavit dated
) 21.11.2023 along with document namely Ration card to
) dispense with a requisition to produce an identity of the
) testatrix.
)
) 2. The petitioner has explained the delay for filing the
) present petition in para No. 10 of the petition as per
) Rule 382 of the Bombay High Court (Original Side)
) Rule, 1980 (for short “Rules”).
)
) 3. The testatrix has appointed N. Sundaram son of
) Neela Kantan as executor in her Will. The said executor
) has renounced his rights of executorship by filing
) Affidavit dated 20.04.2023 which is on record. Hence,
) the petitioner being one of the beneficiaries named
) under the Will, is entitled to file the present petition.
)
) 4. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at
) Mumbai on 06.06.2002, in English language. Ld.
) Advocate for petitioner submits that the photocopy 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. Ld. Advocate for
) petitioner submits that as mentioned in para No. 3 of
) the petition that original Will could not be found after
) due and diligent search which was taken by petitioner
) hence, petitioner has relied upon the photocopy2

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) of the Will. According to the petitioner, the Will was in
) existence and not canceled by the testatrix.
)

) 5. Petitioner states that husband and parents of
) husband of testatrix were predeceased to her and
) testatrix was survived by legal heirs shown in the
) paragraph No. 9 of the petition, as per the provisions of
) the Hindu Succession Act, 1956. Testatrix has no
) children. Husband of testatrix has two brothers. Both of
) them are predeceased to the testatrix. Testatrix brother-
) in-law namely Krishnan Seetharaman has two daughters
) and one son. Wife of the said Krishnan Seetharaman
) died on 21.10.2021. Said S. Krishnan died leaving
) behind Janki Padmabhaman – married daughter,
) Meenakshi Hariharan, married daughter and only son
) namely Seetharaman Krishnan. Testatrix's another
) brother-in-law namely S. Sundaram died on 26.04.1991
) leaving behind his wife namely Chandra Sundaram, two
) daughters namely Radha Subramanian and Vasanti
) Virendra Chawda and two sons namely Ravi Sundaram
) and Mohan Sundaram – petitioner herein.
)

) Consent Affidavits of Janki Padmabhaman dated
) 30.11.2023, Meenkshi Hariharan dated 24.11.2023,
) Radha Subramanian dated 23.11.2023, Ravi Sundaram
) dated 21.11.2023, Vasanti Chawda dated 23.11.2023
) 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 testatrix. They have
) waived the service of Citation. The petitioner affirmed
) that there are no other legal heirs of the testatrix other
) than mentioned in para 9 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 09.05.2024. Notice to
) collector has been sent.
)

) 7. The petitioner has filed the Affidavit of Sarada
) Gopalkrishnan dated 21.11.2023, one of3

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Attesting Witness to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that she was present and testatrix signed on the Testament papers in presence of her and another witness. According to her, 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 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 that as mentioned in para Nos. 6 and 7 of the petition, which reads as under :

“6. That the Petitioner has truly set forth in Schedule – I, which is annexed hereto and marked as EXHIBIT – “C” all the properties and credits which the deceased died possessed of or entitled to at the time of her death.

7. That the Petitioner states that the movable asset that is jewellery mentioned in the Will of the deceased is disposed off as per the Will of the deceased. The immovable property mentioned in the Will which is at Residential premises B-6/34, at Mahendra Nagar, Haji Babu Road, Malad (E), Mumbai-400 097 is sold by the beneficiaries to whom it is bequeathed. The petitioner states that the product TSS (total sleeping System) and related business mentioned in para No. 8 of the Will is bequeathed as per the Will”.

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. .4

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9. As per requisition No. 1 raised in the order dated 12.07.2024, which reads as “To comply with the provisions of rule 397 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for petitioner has filed additional Affidavit of petitioner dated 01.08.2024 and in para 3 of the said Affidavit, explained the legal heirs of testatrix on oath.

10. As per requisition No. 2 raised in the order dated 12.07.2024, which reads as “As per Will, there are donations. Ld. Advocate for petitioner to produce receipts of the same”.

Ld. Advocate for petitioner has filed Additional Affidavit of petitioner dated 01.08.2024 and annexed copy of praecipe dated 26.07.2024, which was submitted to the Joint Charity Commissioner. Ld. Advocate for petitioner further submits that petitioner has filed his Administrator oath and undertaken that he will administer the property and credits of testatrix and he will pay first her debts and then the legacies therein.

11. As per requisition No. 3 raised in the order dated 12.07.2024, which reads as “One of the legal heirs of deceased namely Ravi Sundaram, has put his thumb impression. Ld. Advocate to explain who has interpreted and read over to the said Ravi Sundaram”.

Ld. Advocate for petitioner submits that she has interpreted and explained the Consent Affidavit to Ravi Sundram dated 21.11.2023 and she undertakes to upload the said Affidavit during the course of day. The said undertaking is accepted.

12. Petitioner has executed the Administration Bond dated 11.06.2024, in the prescribed format. Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with photocopy of Will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioner5

06.08.2024

FIRST ASSISTANT MASTER