

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

CALLED FOR COMPLIANCE :

29 TP/1398/2024) Ms. Sharvari Nagvekar Advocate for petitioner

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioners, both are being
) legatees named under the Will executed by Gajanan
) Harishchandra Patil (herein after the same is referred to
) as “Testator”), for grant of Letters of Administration
) with Will annexed. Testatrix said to have died on
) 10.08.2023 at Mumbai. Petitioners 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 the present 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 petitioners are being 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 14.05.2021, in Marathi 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 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.
) Testator died leaving behind namely Geeta Gajanan
) Patil. Testator died issue-less. Consent Affidavit of
) Geeta Gajanan Patil dated 08.11.2023 is on record. She
) has given her consent in the form of Affidavit,2

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) 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 his 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 testator 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 15.05.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the affidavit of Aditya
) Sanjay Hatiskar dated 08.11.2023, one of Attesting
) Witnesses 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. Attesting
) Witness deposed that consents of the Will were duly
) read over and explained to the testator in Marathi
) language at the time of execution of Will. Will is duly
) registered before Joint Sub-Registrar, Mumbai City
) No.2 under registration No. BBE-2/6124/2021.
) 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. Ld. Advocate for petitioner
) submits that as mentioned in para 6 of the petition,
) which reads as under :

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“That the Petitioners have 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 his death, which have or are likely to come to Petitioners’ hands. So far the Petitioners have been able to ascertain or are aware there are no property and credits other than what are specified in the Schedule attached to the Petition. The property mentioned in the Will but not shown in the Schedule – ‘I’, it already been disposed of”.

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 03.07.2024, 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.

12.07.2024

FIRST ASSISTANT MASTER