

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 23rd October, 2024

CALLED FOR COMPLIANCE :

- 35 TP/1400/2024) Mr. Saurabh Oka, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole
) beneficiary named under the Will executed by Vimal
) Ramchandra Gokhale (herein after the same is referred
) to as “Testatrix”), for grant of Letters of Administration
) with Will annexed. Testatrix said to have died on
) 04.07.2022 at Mumbai. 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 the present petition within
) prescribed limit as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The testator has not appointed Executor to execute
) the Will. The petitioner is being sole beneficiary 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 26.05.2014, in Marathi language. Its official
) translation is filed on the record. Ld. Advocate for
) petitioner submits that the original Will No. 511 of
) 2024 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. 8 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Husband of testatrix namely Ramchandra Vaman
) Gokhale predeceased to her and his death certificate is

CONTD....

annexed to the petition as Exhibit – “D”.

....2

35 TP/1400/2024

– 2 –

Testatrix died leaving behind two sons and had no daughter. Testatrix two sons are namely Vinod Ramchandra Gokhale – petitioner herein and Deepak Ramchandra Gokhale. Consent Affidavit of Deepak R. Gokhale dated 31.10.2023 is on record. He has given his 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 his share in the estate of the testatrix. He has waived the service of Citation. 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 29.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit and additional Affidavit of Vinayak Vasudeo Sahastrabudhe dated 27.10.2023 and 16.10.2024, 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 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. Ld. Advocate for petitioner

CONTD...

35 TP/1400/2024

submits that as mentioned in para No. 6 of the petition,
which reads as as under :3

– 3 –

“That the Petitioner has truly set forth in Schedule No.I hereto annexed and marked Exhibit – “C” all the properties 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 the petitioner’s 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.

9. Petitioner has executed the Administration Bond dated 26.06.2024 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.

23.10.2024

FIRST ASSISTANT MASTER