

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 4th July, 2024**

CALLED FOR COMPLIANCE :

44 TP/1507/2024) Mr. Siddharth Desai i/b.Ankita Gala, Advocate for
) petitioner
)
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) **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 Asha
) Vensimal Merani (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 24th June,
) 2006 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-B), Will, petitioner's oath, affidavits
) of legal heirs of the testatrix.
)
) 2. The petitioner has explained the delay in Paragraph
) 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 not appointed executor to execute
) the Will. The petitioner is being one of the beneficiaries
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testatrix left behind her
) Will and Testament which was duly executed at
) Mumbai on 16th December, 2004 in English language.
) Ld Advocate for the 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 and 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. Husband of testatrix namely
) Vensimal T. Merani died on 26th April, 1990. Mother of
) the husband of the testatrix were predeceased to her. ..2

7. The petitioner has filed the Affidavit of Rajkumar Narayan Rajan Iyer dated 16th December, 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 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.3

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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. The Ld. Advocate for the petitioner submitted that as mentioned in paragraph No.6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I, hereto annexed and marked Exhibit “D”, all the property and credits , which the deceased died possessed of or entitled to at the time of her death which are likely to come to the hands of the Petitioner. That in the said Will of the deceased, Fixed Deposit held by the deceased is mentioned and the same is already transferred to the beneficiary hence, not mentioned in the Schedule - I”.

Hence, 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 4th May, 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.

04.07.2024

FIRST ASSISTANT MASTER

