

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 5th September, 2024

CALLED FOR COMPLIANCE :

20 TP/1562/2024) Mr. Deven Shridhar Gujar i/b. Vaishnavi M. Gujarathi,
) 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 Ashok
) Manohar Shinde (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 18.04.2021
) at Mumbai. Petitioner filed the copy of death certificate
) (which is annexed to petition as Exhibit-A), identity
) proof of the testator (which is annexed to petition as
) Exhibit A-1), Will, petitioner's oath, Affidavits of legal
) heirs of the testator.
)
) 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 testator has not appointed Executor to execute
) the Will. The petitioner is being sole beneficiary named
) under the Will. Hence, petition is tenable. Ld. Advocate
) for petitioner submits that in the Will “the executror
) word has been used for testator”
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 06.01.2014, in English language. 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 testator were
) predeceased to him and testator 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 his wife namely Sheela
) Ashok Shinde – petitioner herein, only son2

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namely Dinesh Ashok Shinde and three married daughters namely Kavita Chandrajith, Nutan Saggor Chawla and Trupti Gardner. Consent Affidavits of Dinesh Ashok Shinde, Kavita Chandrajith, Nutan Saggor Chawla all dated 16.09.2023 and Trupti Gardner dated 31.10.2023 are on record. Ld. Advocate for petitioner undertakes to upload the Consent Affidavit of Trupti Gardner dated 31.10.2023 on the official portal of the Bombay High Court. The said undertaking is accepted. 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. The petitioner affirmed that there are no other legal heirs of the testator other than mentioned in para No. 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 03.06.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Pramod Prabhakar Surte dated 16.09.2023, 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 the name and signature subscribed at the foot of the Will is in the proper handwriting of testator. 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 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 to3

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) 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 No. 7 of the petition, which reads as
) under :
)

) “That the petitioner has truly set forth in the
) Schedule No.1 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 his hand.
) It is further stated in the petition that 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 testator at the time of his
) death are mentioned in the Schedule - I of the petition.
)

) 9. Petitioner has executed the administration Bond
) dated 13th October, 2023, 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
)

05.09.2024

FIRST ASSISTANT MASTER

