

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 20th August, June, 2024

CALLED FOR COMPLIANCE :

22 TP/1587/2024) Ms. Meghna Mehta i/b. Shah and Sanghavi, Advocate
) for petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole surviving
) Executor named under the Will. This petition is filed by
) petitioner namely Arun Badrinarayan Sharma through
) Constituted Attorney namely Jane Elizabeth Cox. The
) Will was executed by Rama Badri-Narayan Sharma
)) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 30.10.2023 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 - A1),
)) Will, petitioner's oath.

) 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 testatrix have appointed three Executors named
) under the Will namely Dr. Badri-Narayan Sharma, Arun
) Sharma and Jashwant C. Shah. Among three Executors
) two executors namely Dr. Badri-Narayan Sharma and
) Jashwant C. Shah died on 09.08.2020 and 09.05.2008
) respectively. Death certificates of the said Executors are
) annexed to the petition at Exhibit “C” and “D”. One of
) the Executor namely Arun Shah is now sole surviving
) executor and beneficiary named under the Will. .

) Ld. Advocate for petitioner submits that sole
) surviving executor / petitioner herein is permanent
) residing at USA and unable to file this Letters of
) Administration with Will. Therefore, he has appointed
) Jane Elizabeth Cox, Advocate as his Constituted
) Attorney on behalf of him. Photocopy of Power of
) Attorney is annexed to the petition at Exhibit – “E”. The
) petitioner is the sole surviving Executor named under

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the Will. Hence, petition is tenable.

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) 4. Petitioner stated that the testatrix left behind her
) last Will and Testament which was duly executed at
) Mumbai on 20.05.1993, in English language. Ld.
) Advocate for petitioner has submitted 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. 11 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Husband of testatrix namely Badri-Narayan Sharma
) died on 09.08.2020. Testatrix died leaving behind only
) son namely Arun Badrinarayan Sharma – petitioner
) herein. Testatrix had no daughter. The petitioner
) affirmed that there are no other legal heirs of the
) testatrix.

) 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 22.05.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Paresh
) Jashwant Shah dated 03.01.2024, as per the order
) passed by the Hon'ble Court on 09.08.2024, the
) Hon'ble Court has satisfied with the Affidavit which
) was filed by the petitioner under the provisions of Rule
) 384 of the Bombay High Court (Original Side) Rules,
) 1980. The Hon'ble Court has directed the department to
) accept the Affidavit of Paresh Jashwant Shah under
) Rule 384 of the Bombay High Court (Original Side)
) Rules, 1980 and to proceed further with the petition in
) accordance with law.

) He deposed that on 20th May, 1993, testatrix visited
) his office for execution / attestation of Will. He further
) deposed that Will was explained to the testatrix by
) Jashwant Chimanlal Shah and thereafter, he saw that the
) testatrix had set and subscribed her signature on Will in
) English language. He deposed that he identify the

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signatures of the testatrix Jashwant Chimanlal Shah ...3

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) and Bharat P. Jogi.

) 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 as
) mentioned in para 8 of the petition, which reads as
) under “

) “That the Petitioner has truly set forth in
) SCHEDULE-I all the properties and credits which
) the deceased was possessed of or was entitled to at
) the time of her death which are likely to come to the
) hands of the petitioner which are annexed hereto
) and marked as EXHIBIT- “F”. So far, the Petitioner
) has been able to ascertain or is aware, there are no
) properties and credits other than what are specified
) in the Schedule – I attached to the Petition”.

) 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. Ld. Advocate for petitioner submitted that as
) mentioned in para No. 7 of the Will, which reads as
) under :

) “After the payment as herein above set out, I
) bequest the rest and residue of my estate to my
) husband Dr. Badri Narayan Sharma absolutely. On
) and after the death of my husband my entire estate
) whatever is left to be handed over to my son
) absolutely”.

) Husband of testatrix namely Dr. Badri-Narayan
) Sharma died on 9th August, 2020. After his demise
) petitioner herein namely Arun Badri-Narayan Sharma is
) sole surviving executor / beneficiary named under the
) Will has filed this petition through Constituted
) Attorney.

) 10. Ld. Advocate for petitioner submits that as per the
) order passed by the Hon’ble Court in Testamentary
) Petition No. 2556 of 2022 and Testamentary Petition No.
) 2559 of 2022 dated 28.02.2023, wherein the Hon’ble
) Court has directed to Registry that whenever Class I

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not to insist for filing / furnishing of Administration Bond. Ld. Advocate for petitioner submits that in this petition petitioner is sole beneficiary under the Will hence, Administration Bound is not required. Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue LIMITED Letters of Administration with Will annexed as per section 241 of the Indian Succession Act, 1925 till original petitioner come and apply for Probate 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.

20.08.2024

FIRST ASSISTANT MASTER