

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 21st October, 2024

CALLED FOR COMPLIANCE :

21 TP/1683/2024) Mr. S. U. Lakdwala a/w. Jyoti Badgujar, 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
) legatees named under the Will executed by Vrushali
) Vijay Joshi (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 25.12.2019
) at Nashik. 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, Affidavit of legal heirs of the testatrix.
)
) 2. The petitioner has explained the delay in para
) 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 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
) Nashik on 26.06.2019, in Marathi language. Its official
) translation is filed on the record. Ld. Advocate for
) petitioner submits that the original Will No. 623 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 husband 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.
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Husband of testatrix namely Vijay Narsinha Joshi died on 21.01.1997 and his death certificate is annexed to the petition as EXHIBIT – “E”. Testatrix died leaving behind two married daughters and had no son. Testatrix’s two married daughters are namely Maithili Bhushan Mantri – petitioner herein and Kaumudi Vijay Joshi. Consent Affidavit of Kaumudi Vijay Joshi dated 06.02.2024 is on record. She has given her 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 her 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 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 15.06.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Gayatri Ameya Purohit dated 08.02.2024, 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 she was present and testatrix put her thumb impression and signature (Sd/-VVJ) on the Testament papers in presence of her and another witness. According to her, 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. Will is duly notarized before Ramesh S. Shinde under registration No. 1209/2019. 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.

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8. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for petitioner submits that as mentioned in para No. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I, hereto annexed marked Exhibit “D”, all the property 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 her hands. Rest all properties referred in the Will but not claimed in the Schedule as they have been disposed after execution of Will by Testatrix and did not come in the hands of petitioner at the time of filing of the present application”.

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. Further to order dated 14.10.2024, Ld. Advocate for petitioner has carried out the corrections on 15.10.2024 and deleted Sr. Nos. 6, 7 and 8 of the Schedule I of the petition.

10. Petitioner has executed the Administration Bond dated 06.06.2024, 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.

21.10.2024

FIRST ASSISTANT MASTER