

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 25th September, 2024**

CALLED FOR COMPLIANCE :

17 TP/1694/2024) Mr. Manoj Mane i/b. Priya K. Gajjar, Advocate for
) petitioner
)
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole legatee
) named under the Will executed by Pramila Pandurang
) Chapele (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 10.07.2023
) 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, 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 has not appointed Executor to execute
) the Will. The petitioner is being sole legatee 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 10.04.2023, in Marathi 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. Ld. Advocate for
) petitioner filed her Affidavit dated 01.07.2024. She
) stated that she was born in Marathi family and well
) conversant with reading and understanding Marathi and
) English languages. Hence, translation of Will provided
) by her is true and correct. This is in compliance with
) order dated 10.01.2024 passed by the Hon’ble Court in
) Testamentary Petition No. 1263 of 2023.
)
) 5. Petitioner states that husband of testatrix was
) predeceased to her and testatrix was survived2

CONTD....

– 2 –

17 TP/1694/2024

) 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 Pandurang
) Ramdas Chapele died on 07.01.2022 and his death
) certificate is annexed to the petition as Exhibit 'D'.
) Testatrix died as issue-less. Parents of husband of
) testatrix predeceased to her. Husband of testatrix had
) one brother (brother-in-law of testatrix) and three sisters
) namely Vimalabai Bhaskar Kuvar, Hemlata Ratnakar
) Kulkarni and Prabha Pandhiranath Kulkarni all of
) them died on 08.11.2012, 02.11.2012 and 30.09.2021
) respectively. Their death certificates are annexed to the
) petition as Exhibit "E", "F" and "G" respectively.
) Husband of testatrix died leaving behind only brother
) namely Padmakar Ramdas Chapele – petitioner herein.

) Petitioner stated on oath that husband of testatrix
) had no other brother or no other sister. Petitioner further
) stated on oath that all the sister-in-law of testatrix are
) predeceased to the testatrix and also her husband.
) Hence, they are not entitled to any claim in the property
) left by the testatrix as per Section 15(1)(b) of the Hindu
) Succession Act, 1956. Petitioner stated on oath that in
) absence of the heirs as specified in Section 15(1)(a) of
) the Hindu Succession Act, 1956, the petitioner is the
) only legal heirs of testatrix from her husband side as
) provided under the provision of Section 15(1)(b) of the
) Hindu Succession Act, 1956 as explained in para No.8
) of the petition. 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 23.07.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Mahesh P.
) Sapre dated 16.12.2023, one of Attesting Witness to the
) Will, in the Form No.102 of the Bombay High Court
) (Original Side) Rules, 1980.

.....3

17 TP/1694/2024

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 deposed that Will was typed in Marathi language consisting of two pages and entire Will was read over and fully explained to the testatrix in Marathi language by him. Upon fully understood the contents therein testatrix has affixed her left-hand thumb impression on the Will. Hence, provisions of Rule 419 of the Bombay High Court (Original Side) Rules, 1980 are complied with. 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 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 and marked Exhibit “C”, 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 the Petitioner 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. Ld. Advocate for Petitioner submits that some of the properties are mentioned in Will but not shown in Schedule reason for which was stated on oath by petitioner in para No. 10 of the petition. Para No. 10 of the petition, which reads as under :

“The Petitioner states that the immovable property

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referred in the Will is shown in the4

17 TP/1694/2024

– 4 –

Schedule – I annexed to the petition. Except the said immovable property, the petitioner has not shown all Movable properties in the Schedule – I, though the same are mentioned in the Will of the deceased, as the said Movable property had already been transferred / liquidated by the deceased during her lifetime”.

10. Petitioner has executed the Administration Bond dated 04.07.2024, 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.

25.09.2024

FIRST ASSISTANT MASTER