

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 26th June, 2024**

CALLED FOR COMPLIANCE :

32 TP/1823/2024) Mr. D. R. Mishra, Advocate for petitioner

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-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
-) This petition is filed by petitioners, being legatee named
-) under the Will executed by Gulashan Gulam Ali
-) Sorathia (herein after the same is referred to as
-) “Testatrix”), for grant of Letters of Administration with
-) Will annexed. Testatrix said to have died on 27.05.2023
-) at Mumbai. Petitioners have 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,
-) Affidavits of legal heirs of the testatrix.
-)
-) 2. The petitioners have 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 petitioners are being legatees named
-) under the Will. Hence, petition is tenable.
-)
-) 4. Petitioners have stated that the testatrix left behind
-) her last Will and Testament which was duly executed at
-) Mumbai on 09.02.2022 in English language. Ld.
-) Advocate for petitioners 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's 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 Mohammedan
-) Law applicable to Sunni Muslim. Testatrix has no son
-) and had three daughters namely Sanaa Mustafa Shaikh
-) – petitioner No. 1, Mumzy Mohammed Ameen
-) Merchant – petitioner No. 2 and Yasmin Abdul Hamid
-) Malik – petitioner No. 3. The petitioner affirmed that
-) there are no other legal heirs of the testatrix2

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) other than mentioned in para 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 10.05.2024. Notice to
) collector has been sent.
)
) 7. The petitioner has filed the Affidavit of Muaviyah
) Mustafa Shaikh dated 08.01.2024, 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. Hence, there is
) sufficient compliance of the Rule 383 of the Bombay
) High Court (Original Side) Rules, 1980. Will is
) appeared to have been executed in a language other than
) the language known to the testatrix. Attesting Witness
) deposed that Will was interpreted by him to the testatrix
) in Hindi language and after fully understanding the
) contents of the Will, Testatrix had put her signature.
) Hence, there is sufficient compliance of Rule 419 of the
) Bombay High Court (Original Side) Rules, 1980. He
) 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 as mentioned in para 6 of the petition which
) reads as under :
)
) "That the Petitioners have truly set forth in
) Schedule No.I hereto annexed and marked
) Ex: - "C", all the properties and credits
) which the deceased of or entitled to at the
) time of her death, which have or are likely to
) come to his hands so far as the Petitioners
) have been able to ascertain or is3

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) aware there is no property and credits other
) than what are specified in Schedule attached
) to the Petition”.

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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 the petitioner submitted that as per order dated 02.02.2024 in Testamentary Petition No. 2918 as all the legatees are petitioners herein and rights and interest of no other legal heirs is required to be protected. Hence, Administration Bond is not required in this petition. Statement made by the Ld. Advocate is accepted. 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

26.06.2024

FIRST ASSISTANT MASTER