

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 27th June, 2024**

CALLED FOR COMPLIANCE :

26 TP/1857/2024) Mr. Pankaj S. Shinde, 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 Dadu Appa Patil
-) (herein after the same is referred to as “Testator”), for
-) grant of Letters of Administration with Will annexed.
-) Testator said to have died on 13.08.2015 at Bhadawan,
-) Kolhapur. 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, affidavits of legal
-) heirs of the testator.
-)
-) 2. The petitioner has explained the delay in para 9 of
-) the petition vide 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 legatee named
-) under the Will. Hence, petition is tenable.
-)
-) 4. Petitioner stated that the testator left behind his last
-) Will and Testament which was duly executed at
-) Mumbai on 21.09.2013 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. 8 of the petition, as
-) per the provisions of the Hindu Succession Act, 1956.
-) Wife of testator namely Haushaabai Patil died on
-) 06.08.2022. Testator died leaving behind three sons and
-) one married daughter. Testator sons are namely
-) Dhondiba Patil, Mahadev Patil and Sadashiv Patil and
-) only daughter namely Sugandha Chavhan. Consent
-) Affidavits of Dhondiba Patil, Mahadev Patil,2

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) Sadashiv Patil and Sugandha Chavhan all dated
) 26.01.2024 are on record. Legal heirs of the testator
) 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 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 13.05.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Deepak V.
) Ghadge dated 12.01.2024, 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 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. Will is appeared to have
) been executed in a language other than the language
) known to the testator. However, the vide Rule 419, he
) deposed that contents of the Will were read over to
) testator. He deposed that he had explained and
) interpreted Will to the testator in Marathi language.
) Hence, there is compliance of 419 of the Bombay High
) Court (Original Side) Rules, 1980. Will is duly
) registered before Joint Sub-Registrar, Mumbai City
) No.2, Mumbai under registration No. BBE2-6431-2013.
) He 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 to accept the execution of the Will and petitioner

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is succeeded to prove the execution of Will.3

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8. Properties mentioned in the schedule of the petition are referred in the Will. The Ld. Advocate for the petitioner submitted that properties available to the testator at his time are mentioned in the schedule of the petition.

9. Petitioner has executed the administration Bond dated 10.05.2024, 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.

27.06.2024

FIRST ASSISTANT MASTER