

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

CALLED FOR COMPLIANCE :

29 TP/1860/2024) Ms. Shobhana Waghmare a/w. Akshata Kadam,
) 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
) beneficiary named under the Will executed by
) Dhondiba Hari Chalake (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 20.07.2023 at Kolhapur, Maharashtra.
) Petitioner filed the copy of death certificates (which is
) annexed to petition as Exhibit- A), identity proof of the
) testator (which is annexed to petition as Exhibit-A1),
) Will along with its translation, petitioner's oath,
) affidavits of legal heirs of the testator.
)
) 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 testator has not appointed executor to execute
) the Will. The petitioner being sole beneficiary 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 23.05.2017, in Marathi language. Ld.
) Advocate for petitioner submit that its translation is
) filed on the record. 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. 11 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind his wife namely Yamuna
) Chalake and three married daughters namely Lata
) Divekar, Vasanti Gayakavad and Surekha Chavan.2
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29 TP/1860/2024)

) The petitioner affirmed that there are no other legal
) heirs of the testator as mentioned in para 11 of the
) petition.

) 6. Citation to non-consenting legal heirs of the
) deceased namely Yamuna Chalke, Lata Divekar, Vasanti
) Gayakavad and Surekha Chavan was issued, which are
) duly served by Sheriff as per Rule 399 of the Bombay
) High Court (Original Side) Rules, 1980. Affidavit of
) Service filed by Mr. Sanjay J. Dhamapurkar, Bailiff and
) Clerk of the office of Sheriff, Mumbai dated 13.06.2024
) is on record. As per postal Tracking Report annexed the
) Affidavit as Exhibit – “D” Colly. citation had already
) been received by them. However, non-consenting legal
) heirs did not resist the petition till date.

) 7. 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 16.05.2024. Notice to
) collector has been sent.

) 8. The petitioner has filed the Affidavit of Keshav
) Gundu Khamkar dated 15.02.2024, 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 duly
) registered before Joint Registrar, Mumbai City II, vide
) registration No. 7202/2017. Attesting witness 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 is
) succeeded to prove the execution of Will.

) 9. Properties mentioned in the schedule of the petition

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are referred in the Will as well as in residuals3

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29 TP/1860/2024)

) clause of the Will. The Ld. Advocate for the petitioner
) submitted that properties available to the testator at the
) time of his his death are mentioned in the schedule of
) the petition.

) 10. Petitioner has executed the administration Bond
) dated 22.06.2024, 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.

27.0.6.2024**FIRST ASSISTANT MASTER**