

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 19th July, 2024

CALLED FOR COMPLIANCE :

36 TP/1862/2024) Ms. Vandana Singh i/b. Rana Singh, Advocate for
) petitioner
)
)
) **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 Vinay J. Thapar
) (herein after the same is referred to as “Testator”), for
) grant of Letters of Administration with Will annexed.
) Testator said to have died on 07.10.2023 at Mumbai.
) 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 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 appointed Dr. Sanjiv Talwar as sole
) executor of his Will. The said executor died on
) 10.02.2022 without proving the Will. Copy of death
) certificate is annexed to the petition as EXHIBIT – “C”.
) Hence, the petitioner is 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 05.01.2016, 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.
) Testator died leaving behind his wife namely
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Rita Vinay Thapar – petitioner herein, only son Porus Vinay Thapar and only daughter namely Pratibha Manav Khanna. Joint Consent Affidavits of Porus Vinay Thapar and Pratibha Manav Khanna dated 02.12.2023 is on record. They have given their consents 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 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 21.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavits and Additional Affidavits of Dr. Roma Someshlala dated 02.12.2023 and Dr. Sarina Shah dated 04.12.2023, Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witnesses deposed that they were present and testator signed on the Testament papers in presence of both of them. According to them, 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. Ld. Advocate for petitioner has filed Additional Affidavit of Dr. Sarina Shah dated 11.07.2024 in support of execution of the Will. 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.

8. Properties mentioned in the schedule of the petition are referred in the Will as well as in residuals3

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clause of the Will. Ld. Advocate for petitioner submits that as mentioned in para 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in the Schedule No. I, hereto annexed and marked Exhibit – “D”, the immovable property which the deceased died possessed of or entitled to at the time of his death, which have or are likely to come to Petitioner’s hands”.

The Ld. Advocate for the petitioner submitted that properties available to the testator at the time of his death are mentioned in the Schedule – I of the petition.

9. As per requisition No. 2 in the order dated 02.07.2024 which reads as “properties mentioned in the Will and not shown in the Schedule.

Ld. Advocate for petitioner has filed Affidavit of petitioner dated 06.07.2024 and explained on oath in detailed, why the properties which are mentioned in the Will and not shown in the schedule and also annexed death certificate of Vedrani Thapar, mother of testator.

10. Petitioner has executed the Administration Bond dated 13th October, 2023, 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.

19.07.2024

FIRST ASSISTANT MASTER