

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 4th July, 2024**

CALLED FOR COMPLIANCE :

47 TP/1863/2024) Mr. Siddharth Desai i/by Ms. Ankita Gala, Advocate for
) petitioner
)
) -
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by Savitri
) Ramdas Kothari (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 25th
) October, 2022 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-B), Will, petitioner's
) oath, affidavits of legal heirs of the testatrix.
)
) 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”).
)
) 4. The testator has not appointed executor to execute
) the will. The petitioner is being one of the beneficiary
) named under the Will. Hence, petition is tenable.
)
) 3. Petitioner stated that the testatrix left behind her
) last registered Will and Testament which was duly
) executed at Mumbai on 20th August, 2022, in English
) language. Ld Advocate for the petitioner submits that
) the original copy of the 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.
)
) 4. Petitioner states that husband of testatrix was
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No.10 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testatrix husband namely Ramdas K. Kothari died on
) 14.09.1996. The mother of the husband also
) predeceased to her. Parents of the testatrix predeceased
) to testatrix. Testatrix has four daughters and one son.

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Her four daughters are namely Madhuri Ruparel, Geeta Chandan, Anila Chandan, Seema Jobanputra. Her only son only Deepak Kothari. Consent affidavits of Madhuri Ruparel, Geeta Chandan, Anila Chandan, Seema Jobanputra and Deepak Kothari, all dated 13th February, 2024 are on record. They 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 testatrix. They have waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 10 of the petition.

5. 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 9th May, 2024. Notice to the Collector has been sent.

6. The petitioner has filed the Affidavit of Swati Sujay Aversekar, one of Attesting Witness to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that she was present and testatrix signed on the Testament papers in presence of her and another witness. According to her, 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 on 23rd August, 2022, before Joint Sub-Registrar, Andheri-6, under Registration No.BDR/17/11438/2022. She 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.

7. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for the petitioner submitted that as mentioned in para no. 6,3

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which reads as under :

) “That the Petitioner has truly set forth in Schedule
) No.I, hereto annexed and marked Exhibit “D”, all
) the property and credits, which the deceased died
) possessed of or entitled to at the time of her death
) which are likely to come to the hands of the
) Petitioner”.

) Hence, properties available to the testatrix at the time
) of her death are mentioned in the Schedule-I of the
) petition.

) 8. Ld. Advocate for the petitioner submits that as per
) Will, there are beneficiary named under the Will. He
) further submitted that petitioner has stated on oath in
) the petition in paragraph No. 7 that in the Will of the
) testatrix’s properties which was mentioned in paragraph
) No.7, are already transferred to the respective
) beneficiaries. Hence, the same have not been mentioned
) in the Schedule – I of the petition. Statement made by
) the Ld. Advocate for petitioner is accepted, since the
) details have been mentioned alongwith beneficiaries in
) paragraph No.7 of the petition.

) 9. Petitioner has executed the Administration Bond
) dated 8th May, 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.

07.07.2024

FIRST ASSISTANT MASTER

