

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 29th August, 2024**

CALLED FOR COMPLIANCE :

22 TP/1908/2024)

Ms. Sujata Babar, Advocate for petitioner

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1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is filed by petitioners, being legatees named under the Will executed by Anandi Shivram Ghadge (herein after the same is referred to as “Testatrix”), for grant of Letters of Administration with Will annexed. Testatrix said to have died on 03.10.2022 at Thane. 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 along with its official translation, petitioner's oath.
2. The petitioners have filed the present 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 the 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 14.01.2021 in Marathi language. Its official 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. Petitioners have stated that parents 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 Hindu Succession Act, 1956. Husband of testatrix namely Shivram Jiwaji Ghadge died on 19.05.2014 and his death certificate is annexed to the petition as Exhibit “E”. Testatrix died leaving behind one son and four married daughters. Testatrix only son namely Santosh Shivram Ghadge and2

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testatrix four daughters are namely Vidya Vijay Chavan, Kunda Sandesh Mane, Manisha Manohar Shinde and Sandhya Vijay Jadhav. Consent Affidavit of Santosh Shivram Ghadge dated 26.02.2024 is on record. He has given his consent 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 his share in the estate of the testator. He has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para No. 9 of the petition.

6. Citations were issued to Vidya Vijay Chavan, Kunda Sandesh Mane, Manisha Manohar Shinde and Sandhya Vijay Jadhav dispatched on 22.05.2024 through office of Sheriff of Mumbai. Citation dispatched to Vidya Vijay Chavan had been returned back with remarks 'unclaimed'. Citation dispatched to Kunda Sandesh Mane has been duly served on her and acknowledgment card showing receipt of citation is annexed to the Affidavit of Service as Exhibit – "B" to Affidavit of Service. Also, citation dispatched to Manisha Manohar Shinde has been received by her on 24.05.2024 as per postal tracking report which was annexed to the Affidavit of Service (Exhibit - "C"). Petition had also dispatched citation to Sandhya Vijay Jadhav which was duly served on her on 24.05.2024 and postal tracking report is annexed to the Affidavit of Service as Exhibit – "D". Affidavit of Service filed by Sanjay J. Dhamapurkar, Bailiff from the office of Sheriff dated 11.07.2024 is on record. Hence, citation was served upon non-consenting legal heirs and they did not resist the petition till date. Hence, this petition is proceeded as uncontested petition.

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 02.08.2024. Notice to collector has been sent.

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8. The petitioner has filed the Affidavits Manjuben Laxmidasbhai Parmar and Dharmishtha Manish Vadher both dated 24.02.2024, both are being Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. They deposed that they were present and testatrix put her thumb impression 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. Attesting Witnesses deposed that Dr. Pradip S. Yesaji examined and explained Will in Marathi language to testatrix. They further deposed that both of them again read and explained the contents of the Will in Marathi language to the testatrix at registration office at Worli at the time of execution of the Will. Hence, there is sufficient compliance of Rule 419 of the Bombay High Court (Original Side). They 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.

9. Properties mentioned in the schedule of the petition are referred in the Will as well as in residuals clause of the Will. Ld. Advocate for petitioner submits that as mentioned in para No. 6 of the petition, which reads as under :

“That the Petitioners have truly set forth in Schedule No.I, hereto annexed and marked Exhibit – “C”, all the property and credits which the deceased died possessed of or entitled to at the time of her death, which have or likely to come petitioners’ hands”.

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.

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.

FIRST ASSISTANT MASTER