

**BEFORE : MR. DILIP S. GURAV,**  
**FIRST ASSISTANT MASTER**  
**Date: 4<sup>th</sup> October, 2024**

**CALLED FOR COMPLIANCE :**

41 TP/2003/2024 ) Mr. V. P. Tare, 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 Uma Tukaram Bane
- ) (herein after the same is referred to as “Testatrix”), for
- ) grant of Letters of Administration with Will annexed.
- ) Testatrix said to have died on 25.10.2023 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-A1),
- ) Will, petitioner's oath.
- )
- ) 2. The petitioner has 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 petitioner is being sole legatee named
- ) under the Will. Hence, petition is tenable.
- )
- ) 4. Petitioner stated that the testatrix left behind her last
- ) Will and Testament which was duly executed at
- ) Mumbai on 23.10.2023, in English language. Ld.
- ) Advocate for petitioner submits that the original Will
- ) No. 815 of 2024 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 testatrix were
- ) predeceased to her. Legal heirs of testatrix has stated on
- ) oath by petitioner in paragraph Nos. 8 and 9 of the
- ) petition, as per the provisions of the Hindu Succession
- ) Act, 1956. Petitioner stated on oath that the parents of
- ) testatrix predeceased the deceased. Testatrix was
- ) spinster in her whole life and hence, testatrix had no
- ) child. Petitioner had taken care of testatrix till her
- ) death. Petitioner stated that before .....2
- )



41 TP/2003/2024

) before signing the Will. Hence, there is sufficient  
) compliance of the Rule 383 of the Bombay High Court  
) (Original Side) Rules, 1980. Attesting Witness deposed  
) that the contents of the Will was interpreted and  
) explained to the testatrix in Hindi language by him and  
) after fully understanding the contents of the Will,  
) testatrix had put her signature on the Will. Hence, there  
) is sufficient compliance of Rule 419 of the Bombay  
) High Court (Original Side) Rules, 1980. Will is duly  
) notarized before H. B. Mishra, Notary Government of  
) India, which was noted and registered under Sr. No.  
) 626. Attesting Witness 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. Ld. Advocate for petitioner  
) submits that as mentioned in para No. 6 of the petition,  
) which reads as under :

) “That the Petitioner has truly set forth in  
) Schedule No. hereto annexed and marked as  
) 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 are likely to  
) come to the petitioner’s hands. So far as the  
) Petitioner has been able to ascertain or is aware,  
) there are no property and credits other than what  
) are specified in Schedule No. I attached to the  
) petition”.

) 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.

) 10. As per requisition No. 1 raised in the order dated  
) 04.07.2024, which reads as “To comply with the  
) provisions of rule 397 of the Bombay High Court  
) (Original Side) Rules, 1980”. .....4

41 TP/2003/2024

Ld. Advocate for petitioner has carried out amendment on 23.08.2024 and complied with the same.

11. As per requisition No. 2 raised in the order dated 04.07.2024, which reads as “As per Will, there is averment as ‘I say that I have no intention to give my share in the abovesaid movable and immovable properties to my family members’. Advocate to explain (family members, if any)”.

Ld. Advocate for petitioner submits that petitioner had amended the petition on 23.08.2024 and stated on oath that there is no family members known to him, as his father and himself had taken care of testatrix till her death. Also, he stated that he tried to find out family members if any, but could not found. Furthermore, petitioner has taken out Chamber Order and citation has been published in two newspapers, till date none oppose this petition. Ld. Advocate for petitioner submits that there is averment in the Will that the testatrix had no intention to give shares in movable and immovable properties to my family members and her last desire and intention to bequeath to the petitioner herein. Petitioner has already stated on oath that there is no family members of the testatrix known to him.

Ld. Advocate for petitioner further submits that alongwith Will there is doctor certificate wherein it has been certified that “This is to certify that I have examined Smt. Uma Tukaram Bane thoroughly and found that she is not suffering from any physical or mental disease. She is well known to surrounding & time – she knows what she is going to do. She is not under any pressure. So she is perfectly fit to do her Will”. Ld. Advocate for petitioner submits that at the time of execution of Will testatrix was sound mind, memory and understanding. He further submits that she had executed her Will on 23.10.2023 and died on 25.10.2023.

Ld. Advocate for petitioner submits that this is uncontested petition. Hence, Letters of Administration with Will should be granted in favour of the petitioner.

CONTD....

– 5 –

41 TP/2003/2024

12. As per requisition No. 3 raised in the order dated 04.07.2024, which reads as “To comply with the provisions of rules 383 and 419 of the Bombay High Court Rules, 1980”.

Ld. Advocate for petitioner has filed Additional Affidavit of Attesting Witness dated 20.07.2024, in support of execution of the Will and complied with the same.

13. Petitioner has executed the Administration Bond dated 20.06.2024, 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.

04.10.2024

FIRST ASSISTANT MASTER