

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 12th July, 2024**

CALLED FOR COMPLIANCE :

37 TP/2031/2024) Mr. Maulik Tanna, 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 Urmila
) Arjun Rachh (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 8th May,
) 2002 at Mumbai. Petitioner filed the copy of death
) certificate (which is annexed to petition as Exhibit-A),
) Will, petitioner's oath, affidavits of legal heirs of the
) testatrix. Petitioner has filed affidavit of petitioner dated
) 04.07.2024 along with documentary proof namely
) ration card, to dispense with a requisition to produce an
) identity of the testatrix.
)
) 2. The petitioner has explained the delay in para 10A
) of the petition 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 beneficiary 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 23rd March, 2002, in Gujarathi language.
) Ld. Advocate for petitioner has filed his Affidavit dated
) 28.06.2024 and stated on oath that he is well verse with
) the reading and understanding of Gujrathi and English
) languages. Hence, translation which was provided by
) him is true English translation of Gujarathi Will. Hence,
) there is compliance of order dated 10.01.2024 passed by
) the Hon’ble Court in Testamentary Petition No. 1263 of
) 2023. 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.

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5. Petitioner states 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. Testatrix died leaving behind four brothers and five sisters.

6. Testatrix's four brothers are namely Dr. Hansraj Rachh, Jayant Rachh, Dr. Vasant Rachh and Dr. Pratap Rachh. Testatrix's sisters are namely Godhavari Chothani, Vimla Thakkar, Dayamanti Aiya, Lata Jobanputra and Usha Rachh. Among four brother's of testatrix, Dr. Hansraj Rachh died leaving behind his daughter namely Roopali Sheth and wife namely Nirmala Rachh. The said Nirmala Rachh also died on 09.07.2021. Testatrix another brother namely Jayant Rachh died leaving behind his wife namely Chandrakala Rachh. Testatrix's other brother namely Dr. Vasant Rachh also died leaving behind his wife namely Hemantini Rachh and daughter namely Dr. Manasi Sawant – petitioner herein and son namely Dr. Pratik Rachh. Testatrix one of the brothers namely Dr. Pratap Rachh died issue-less and bachelor. Testatrix's sister namely Godhavari Chothani died leaving behind her son namely Bharat Chothani and daughter namely Purnima Kothari. Testatrix's another sister namely Vimla Thakkar died on 25.10.2014. Husband of said Vimla Thakkar namely Narendra Thakkar predeceased to her. Testatrix's one of the sister namely Damayanti Aiya died leaving behind her husband Dungarshi Aiya and daughter namely Chetna Aiya.

7. Consent Affidavits of Bharat Chothani dated 04.01.2024, Purnima Kothari dated 01.03.2024, Rupali Sheth dated 03.02.2024, Chandrakala Rachh dated 03.02.2024, Dr. Hemantini Rachh dated 08.02.2024, Dr. Pratik Rachh dated 14.02.2024, Dungarshi Aiya dated 03.02.2024, Chetna Aiya dated 03.02.2024, Lata Jobanputra dated 3.02.2024 and Dr. Usha Rachh dated 08.02.2024 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 with3

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) 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
) 9 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 22.05.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavits of Sudhir M.
) Kapadia and Dr. Sandesh V. Sawant both dated
) 29.02.2024, both are being 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 testatrix signed on
) the Testament papers in presence 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. Will is duly notarized before Natvarlal P.
) Sonchhatra, Notary Greater Bombay. They further
) deposed that at the time of execution of the Will,
) testatrix was of sound and disposing mind, memory and
) understanding. Ld. Advocate for petitioner has filed
) Additional Affidavit of Sudhir Kapadia dated
) 04.07.2024, in support of execution of the Will. 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. 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 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 of4

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her death, which have or are likely to come to her 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.

9. Petitioner has executed the Administration Bond dated 18.06.2024, 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.

12.07.2024

FIRST ASSISTANT MASTER