

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

CALLED FOR COMPLIANCE :

52 TP/2036/2024) Mr. Sudhir Yadav i/b. Amit S. More, Advocate for
) petitioner

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) **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 Sevti Shardul Mehta
) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 14.04.2021 at Mumbai.
) Petitioner has 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, 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”).

) 3. Testatrix has appointed Susen Chhaganlal
) Mazumdar as sole executor named under the Will. The
) said Executor has renounced his rights for filing of
) Probate and execution of the said Will. Affidavit of
) Susen C. Majumdar dated 01.11.2023 is on record. The
) executor has relinquished his executorship by filing an
) Affidavit. He renounced and relinquished his rights, title
) and interest to file the Probate Petition. Hence, the
) petitioner being the sole legatee named under the Will,
) is entitled to present the petition.

) 4. Petitioner stated that the testatrix left behind her
) last Will and Testament which was duly executed at
) Mumbai on 25.04.2010, in English language. Ld.
) Advocate for the 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 husband of testatrix was predeceased to her and testatrix was survived by legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testatrix died leaving behind her only daughter namely Ami Jiten Panddya – petitioner herein. Testatrix had only daughter and had no son. The petitioner affirmed that there are no other legal heirs of the testatrix 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 22.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Pankaj Majumdar dated 01.01.2023, one of Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting witness deposed that he was present and testatrix signed on the Testament papers in presence of him and another witness. According to him, 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 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.

8. Properties mentioned in the Schedule-I 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 6 of the petition which reads as under :

“That the Petitioner has truly set forth in Schedule I hereto annexed and marked Exhibit “C” all the properties and credits which the said deceased died possessed of or entitled to3

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) at the time of her death, which have or are likely
) to come to the petitioners' hands. So far as the
) Petitioner has been able to ascertain or are aware
) that the said deceased left no other movable and
) immovable properties other than those specified
) in Schedule I annexed hereto".

) 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. Ld. Advocate for the petitioner submitted that in the
) petition, there is typographical error in para No. 5 and
) prayer clause, the word 'probate' has been mentioned
) instead of 'Letters of Administration with Will'. He
) further submits that in the pleading everywhere, it has
) been correctly stated i.e. 'Letters of Administration with
) Will'. Hence, Ld. Advocate for petitioner undertakes to
) file corrected petition during the course of the day. The
) said undertaking is accepted.

) 10. Petitioner has executed the Administration Bond
) dated 17th 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

04.07.2024

FIRST ASSISTANT MASTER