

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 18th September, 2024

CALLED FOR COMPLIANCE :

47 TP/2039/2024) Ms. Prajakta Sakpal i/b. Divekar Bhagwat, Advocate for
) petitioner
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) **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
) Gurunath Mukund Shenai (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 16.12.2013 at Mumbai. Petitioner filed the copy
) of death certificate (which is annexed to petition as
) Exhibit - A), identity proof of the testator (which is
) annexed to petition as Exhibit- A1 and A2), Will along
) with its official translation, petitioner's oath, Affidavits
) of legal heirs of the testator.
)
) 2. The petitioner has explained the delay in para No. 9
) of the petition as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
)
) 3. The testator has not appointed Executor to execute
) the Will. The petitioner is being one of the beneficiaries
) named under the Will. Hence, petition is tenable.
)
) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 10.05.2008, 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. Petitioner states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 8 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator was bachelor. Testator had two brothers and
) four sisters.
)

7. The petitioner has filed the Affidavit of Dr. Bhalchandra Vasudeo Jogalekar dated 13.01.2024, 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 testator had informed him that he had prepared his handwritten Will in his own handwriting in Marathi language and intend to execute the same on 10.05.2008. He further deposed that he was present and testator signed on the Testament papers in presence of his 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, testator was of sound

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and disposing mind, memory and understanding.3

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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. 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 ‘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 his death, which have or are likely to come to the Petitioner’s hands. So far as the Petitioner is able to ascertain or is aware, there are no property and credits other than those specified in the Schedule ‘I’ attached to this Petition. The remaining property and credits of the deceased which are mentioned in the Will dated 10th May 2008 and not included in the Schedule ‘I’ have already been transferred in the names of the beneficiaries / legatees as per terms of the said Will dated 10th May 2008”.

The Ld. Advocate for the petitioner submitted that properties available to the testator at the time of his death are mentioned in the Schedule – I of the petition.

9. As per requisition No. 1 raised in the order dated 16.07.2024, which reads as “To file consent Affidavit of Geeta Gangadhar Shenai”.

As per per order dated 06.09.2024, the Hon’ble Court has dispensed with the said requisition, which has reflected in para No. 3 of the order. Para No. 3 of the said order reads as under :

“3. Certain bequests are made in favour of Sau Geeta Shenai. The deceased was survived by two sisters, who have given their consent for the grant of Letters of Administration. As the deceased was survived by two sisters, they succeed to the estate of the deceased to the exclusion of the heirs in the succeeding entries in the schedule of4

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class-II heirs. As Gangadhar Shenai predeceased the deceased, it is not necessary to serve the citation on Sau Geeta Shenai. Therefore, the office objections stand dispensed with”.

10. As per requisition No. 2 raised in the order dated 16.07.2024, which reads as “Properties mentioned in the Will and not shown in the Schedule”.

As mentioned in para No. 6 of the petition, the said requisition has been complied with.

11. Petitioner has executed the Administration Bond dated 15.06.2024, 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.

18.09.2024

FIRST ASSISTANT MASTER