

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 16th July, 2024**

CALLED FOR COMPLIANCE :

39 TP/2062/2024) Mr. Madhusudan Gawde, Advocate for petitioner
)
)
) 1. Perused Petition. Heard Ld. Advocate for petitioner.
) **P.C.:** This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by
) Vanmala Krishnarao Redkar (herein after the same is
) referred to as “Testatrix”), for grant of Letters of
) Administration with Will annexed. Testatrix said to have
) died on 31.8.2022 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-B), Will along with its
) official translation, 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. The testatrix 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 testatrix left behind her last
) Will and Testament which was duly executed at Mumbai
) on 19.04.2013, 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 testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No. 10 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testatrix has one sister and one brother. One brother
) namely Prakash K. Redkar – petitioner herein and only
) married sister namely Sumati Ramakant Ajgaonkar died
) on 07.06.2022 as widow and left no issues.2

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34 TP/2062/2024

)
) The petitioner affirmed that there are no other legal heirs
) of the testatrix other than mentioned in para 10 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 30.05.2024. Notice to collector
) has been sent.

) 7. The petitioner has filed the Affidavit of Smita
) Dwarkanath Sawant dated 17.01.2024, 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 she was present and testatrix
) signed on the Testament papers in presence of her and
) another witness. According to her, 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 Rules.
) 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 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 "D" all the property
) and credits which the deceased died possess of or
) entitled to at the time of her death which have or are
) likely to come to the petitioner's hands. The Petitioner
) state that 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 the Schedule – I
) attached to the Petition left by the deceased".

) 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. ..3

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34 TP/2062/2024

9. As per Will, Testatrix has given Rs. 10,000/- for her community and Rs.10,000/- kept reserved for religious ceremony and donation.

Ld. Advocate for petitioner has filed Affidavit of petitioner dated 10.7.2024 and undertakes to give Rs.10,000/- to the community and Rs.10,000/- had kept reserved for religious ceremony and donations as directed in the Will.

10. As per Will, there are two beneficiaries. They are namely Deepak Prakash Redkar and Hemant Prakash Redkar. They have filed their consent Affidavits both dated 13.07.2024, which 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 with 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

11. Petitioner has executed the Administration Bond dated 25.05.2024, 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.

16.07.2024

FIRST ASSISTANT MASTER