

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 3rd July, 2024**

CALLED FOR COMPLIANCE :

35 TP/2078/2024) Mr. Atish Mahade, Advocate for petitioner
)
) **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
) Raghunath Jotiram Pol (herein after the same is referred
) to as “Testator”), for grant of Letters of Administration
) with Will annexed. Testator said to have died on
) 18.11.2023 at Mumbai. Petitioners 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), Will, petitioner's
) oath, Affidavits of legal heirs of the testator.
)
) 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 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 08.11.2022, in English language. 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. 6 (which was
) mentioned in chart) of the petition, as per the provisions
) of the Hindu Succession Act, 1956. Testator died
) leaving behind wife namely Vatsala R. Pol and only son
) Rajendra Pol – Petitioner herein and three married
) daughters namely Sharmila Sadaphule, Minal Narayane
) and Hema Dhake. Consent Affidavits of2

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) Vatsala R. Pol dated 23.02.2024, Sharmila Sadaphule
) dated 23.02.2024, Minal Narayane dated 26.02.2024
) and Hema Dhake dated 23.02.2024 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
) with Will annexed in favour of the petitioner without
) justifying any surety in respect of their shares in the
) estate of the testator. They have waived the service of
) Citation. The petitioner affirmed that there are no other
) legal heirs of the testator other than mentioned in para 6
) 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 Nilesh
) Surendra Shreyakar dated 23.02.2024, 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
) 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. Will is duly
) registered before Joint Sub-Registrar, Andheri No. 2,
) Mumbai Suburban District under registration No. BDR-
) 4-11643/22. Attesting witness further deposed that at
) the time of execution of the will testator 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. Ld. Advocate for the petitioner seeks to correct
) typographical error in para No. 3 of the petition, which
) reads "That the said deceased left a Will simultaneously
) executed

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) on 05.03.2020, registered under serial No.3337 on
) 08.11.2022 and replace with 'That the said deceased
) left a Will simulatneously executed on 08.11.2020,
) registered under Sr. No. 11643 on 11.11.2022'. He
) further submits that this Will is last Will of testator. Ld.
) Advocate for petitioner undertakes to correct the
) petition and re-upload the same during the course of the
) day. The said undertaking is accepted.

) 9. Properties mentioned in the Schedule of the petition
) are referred in the Will as well as in residuals clause of
) the Will. Ld. Advocate for petitioner submits as under :

) "That the petitioner has truly set forth in the
) Schedule I, annexed and marked Exhibit – "D"
) to the petition, all the property and credits which
) the deceased possessed of or entitled to at the
) time of his death or which are likely to come to
) the hands of the Petitioner. The property
) mentioned in the Will and not mentioned in
) Schedule – I to the petition, are disposed by the
) deceased during his lifetime".

) 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.

) 10. Petitioner has executed the Administration Bond
) dated 21.05.2024, 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.

03.07.2024

FIRST ASSISTANT MASTER

