

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 5th August, 2024

CALLED FOR COMPLIANCE :

31 TP/2100/2024) Mr. Kunal Sunil Jadhav, 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
) Gokulabai Dattatray Yadav (herein after the same is
) referred to as “Testatrix”), for grant of Letters of
) Administration with Will annexed. Testatrix said to
) have died on 27.02.2019 at post Rahimatpur, Koregaon,
) Satara. 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 - A1), Will along with its official translation,
) petitioner's oath, Affidavits of legal heirs of the
) testatrix.
)
) 2. The petitioner has explained the delay in para No.
) 11 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 executors 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 05.07.2017, 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 and husband 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 two
) sons and two married daughters.2

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) Two sons namely Bhanudas D. Yadav and Sunil D. Yadav. Testatrix's two married daughters are namely Rekha Sanjay Kadam and Ratnamala Sunil Fadtare. Consent Affidavits of Bhanudas D. Yadav, Sunil D. Yadav, Rekha Sanjay Kadam and Ratnamala Sunil Fadtare, all dated 30.11.2023 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. 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 28.05.2024. Notice to collector has been sent.

) 7. The petitioner has filed the Affidavit of Vilas Dhaku Pawar dated 30.11.2023, 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 he was present and testatrix 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 deposed that the Will was read over to the testatrix and also explained, interpreted in Marathi language to her. Will is duly registered before Joint Sub-Registrar, Mumbai City-2 under registration No. BBE2/9172/2017. 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

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execution of Will.

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8. 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 that as mentioned in para 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in the Schedule No. I, hereto annexed and marked Exhibit “C” the property and credits which the deceased died possessed or entitled to at the time of her death and which have or are likely to come to the petitioner hands. 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 attached to the Petition”.

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 05.07.2024, in the prescribed format. Ld. Advocate for petitioner submits that Administration Bond has been executed on 05.07.2024 as there is typographical and handwritten mistake as ‘04.07.2024’. 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

05.08.2024

FIRST ASSISTANT MASTER