

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 23rd August, 2024

CALLED FOR COMPLIANCE :

55 TP/2163/2024) Ms. Shireen Pochkhanwalla a/w. Vahista Jagirdar i/b.
) Maneksha and Sethna, 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 executrix
) named under the Will executed by Dilipsinh Govindji
) Bhatia for grant of Letters of Administration with
) authenticated copy of the Will annexed (herein after the
) same is referred to as “Testator”). Testator has appointed
) his wife namely Malti D. Bhatia as Executrix in the
) Will.
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) 2. Petitioner states that testator said to have died on
) 14.09.2022 at New Jersey, USA. Petitioner has 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), Authenticated copy
) of Probate of Will, Copy of (which annexed to petition
) as Exhibit “A2”) petitioner's oath, Affidavits of legal
) heirs of the testator.
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) 3. The petitioner has filed petition within prescribed
) limit as per Rule 382 of the Bombay High Court
) (Original Side) Rule, 1980 (for short “Rules”).
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) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at County
) of Essex, New Jersey, USA on 11.02.2016, in English
) language. Ld. Advocate for petitioner submits that the
) Will was probated on 18th January, 2023 under the seal
) of County of Essex, Essex County Surrogates Courts,
) State of New Jersey to petitioner herein the Executrix
) named in the Will. She submits that properly
) authenticated copy of Probate 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. Ld. Advocate for petitioner submits that testator
) died leaving behind his wife namely2

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Malti D. Bhatia and his two daughters namely Deepa B. Desai and Manisha Bhatia. One of the daughter of testator's namely Manisha Bhatia died leaving behind her son namely Deven Malia. Consent Affidavits of Deepa Desai dated 03.08.2024 and Deven Malia dated 07.08.2024 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.

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 31.05.2024. Notice to collector has been sent.

7. Ld. Advocate for petitioner submits that Will is already proved before the Foreign Court and its authenticated copy of the Probate is produced on the record which is annexed to the petition and marked as Exhibit – “A2”.

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 No. 4 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I, hereto annexed and marked Exhibit ‘B’, all the property and credits in India which the deceased died possessed of or entitled at the time of his death, which have or are likely to come to his hands”.

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

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9. As per requisition No. 1 raised in the order dated 11.07.2024, which reads as “To check prayer clause”.

Ld. Advocate for petitioner has carried out corrections on 22.08.2024 and complied with the same.

10. As per requisition No. 2 raised in the order dated 11.07.2024, which reads as “To file Consent Affidavits of legal heirs of deceased”.

Ld. Advocate for petitioner have filed consent Affidavits of Deepa Desai dated 03.08.2024 and Deven Malia dated 07.08.2024 and complied with the same.

11. As per requisition No. 3 raised in the order dated 11.07.2024, which reads as “To explain relevant clause wherein property claimed in Schedule I of the petition has been mentioned in the Will”.

Ld. Advocate for petitioner has filed Affidavit of petitioner dated 03.08.2024 and stated on oath that paragraph SECOND (B) of the Will are all movable properties of the testator at the time of his death was bequeathed to the petitioner herein. She further stated that paragraph THIRD of the Will states that all the rest and residue and remainder of the estate of the testator of whatsoever nature and wheresoever situate is bequeathed to his wife i.e. petitioner herein. Hence, petitioner is sole executor named under the Will executed by testator.

She further clarifies that names of persons mentioned in paragraph ELEVENTH - (A) and ELEVENTH - (B) of the Will namely Deepa B. Desai, Darshana Ashar and Pranav Ashar have been mentioned as alternate executrix / executor / trustee only. She further stated on oath that she is sole beneficiary for the estate of testator and no other person has any claim or right.

12. Petitioner has executed the administration Bond dated 13.03.2024, in the prescribed format. Hence, following order:

ORDER

1) Petition is granted.

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2) Office to issue Letters of Administration with authenticated copy of 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.

23.08.2024

FIRST ASSISTANT MASTER