

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 15th July, 2024**

CALLED FOR COMPLIANCE :

31 TP/2165/2024) Mr. Uttam Rane, 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 Sushila
) Sitaram Bajaj (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 11.02.2023
) 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, 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
) Thane on 22.12.2022, in English language. Ld.
) Advocate for the 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 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 husband namely Sitaram
) Bajaj and three married daughters namely Nisha
) Khaitan, Monica Mehta and Neelam Singhal. Consent
) Affidavits of Sitaram Bajaj, Nisha Khaitan, Monica
) Mehta and Neelam Singhal all dated 23.02.2024 are on
) record. They have given their consents in the form of
) Affidavits, which are filed on the record2
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) 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 05.04.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the affidavit of Nisha Anil
) Khaitan date 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 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. Will is duly registered
) before Joint Sub-Registrar, Thane under serial No.
) TNN/16903/2022. 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 paras 5 and 8 of the
) petition which reads as under :

) "5. That the petitioner has truly set forth in
) Schedule No. I, hereto annexed and marked
) Exhibit "D", all the property and credits which
) the said deceased died possessed of or was
) entitled to at the time of her death, which have, or
) are likely to come to the beneficiaries3

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) hands under the last will and testament of the
) deceased. In so far as the petitioner has been able
) to ascertain, or is aware, there are no properties
) and credits other than what are specified in the
) Schedule No. I attached hereto, left by the said
) deceased”.

) 8. That the assets of the said deceased as
) mentioned in Schedule No. I, including all rents,
) interest and dividends which have accrued since
) the date of death of the said deceased and
) increased value of the assets since the said date
) of the said deceased are of the value of
) Rs.65,00,000/- (Rupees Sixty Five Lakhs Only).
) That the petitioner states that the movable
) properties mentioned in the last Will and
) testament of the deceased i.e. Bank Balances,
) Fixed Deposits, Cash etc. are already distributed /
) transferred as per the Will of the deceased and
) hence same are not mentioned in the Schedule – I
) herein”.

) 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 10.07.2024, 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.

15.07.2024

FIRST ASSISTANT MASTER

