

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 26th August, 2024

CALLED FOR COMPLIANCE :

23 TP/2212/2024) Ms. Shamika Sagar Ranade a/w. Vaibhav Kakade,
) Advocate for petitioner
)
) -
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by
) Sharadchandra Sadashiv Deshpande (herein after the
) same is referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 29.02.2020 at Mumbai. Petitioner 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 explained the delay in para No.
) 10 of the petition 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 legatees
) 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 23.06.2015, in Marathi 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. Ld. Advocate for
) petitioner has filed her Affidavit dated 13.08.2024 and
) stated that she born in Marathi family and well verse
) with reading and understanding Marathi as well as
) English languages. She certified that translation
) annexed to the petition as Exhibit “B1” is true and
) correct. Hence, there is compliance of the order passed
) by the Hon’ble Court dated 10.01.2024 in Testamentary
) Petition No. 1263 OF 2023.2

CONTD....

- 2 -

23 TP/2212/2024

5. Petitioner states that parents of testator were predeceased to him and testator was survived by legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testator died leaving behind his wife namely Sharmila Deshpande and two sons namely Shailesh Deshpande – petitioner herein and Sachin Deshpande. Testator had no daughter and no other son. Consent Affidavit of Sharmila Deshpande dated 09.01.2024 and Sachin Deshpande dated 29.01.2024 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 No. 8 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 08.08.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Neelam Ramakant Salkar dated 09.01.2023, 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 she was present and testator 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 Bombay High Court (Original Side) Rules, 1980. 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.3

CONTD....

– 3 –

23 TP/2212/2024

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 No. 6 of the petition, which reads as under :

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

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.

9. As per Will, properties mentioned in Schedule I of the petition has been bequeathed to the petitioner herein. Ld. Advocate for petitioner submits that properties mentioned in the Will and not shown in the Schedule I of the petition are stated in para No. 12 of the petition, which reads as under :

“The Petitioner states that except the immovable property mentioned in Schedule I annexed to the present Petition, the Petitioner has not shown all the Movable properties i.e. Joint Investment in Nationalised and co-op Banks and Post Office, in Schedule – I annexed to the petition as after the death of the deceased, the balance amount of the said investment had already been received by Sharmila Sharadchandra Deshpande, the Widow of the deceased as per the said Will and she has filed her consent affidavit being one of the Legatee named under the said Will, in respect of the aforesaid investment of Banks and Post Office. In view of the same, the Petitioner has not shown the said Movable properties in the Schedule – I annexed to the petition”.

10. Petitioner has executed the Administration Bond dated 05.07.2024, in the prescribed format. Hence, following order:4

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.

26.08.2024

FIRST ASSISTANT MASTER