

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 19th August, 2024

CALLED FOR COMPLIANCE :

35 TP/2338/2024) Mr. Saurabh Oka, 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
) Ghansham Aassandas Jagasia (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 27.01.2022 at Gujarat. 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.
)
) 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 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 22.09.2011, 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. 8 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Wife of the testator namely Kavita Ghansham Jagasia
) predeceased to him and her death certificate annexed to
) the petition as Exhibit – “D”. Testator died issue-less.
) Testator died leaving behind his only brother namely

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Prem Assandas Jagasia – petitioner herein and had no sister. 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 31.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Gokul Lokumal Bhatia dated 15.12.2023, 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 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 notarized before Harkishin B. Sharma, Advocate and Notary which was registered under Notary Sr. No. 6776/2011. 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. Properties mentioned in the schedule of the petition are referred in 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 properties 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’s hands”3

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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. Ld. Advocate for petitioner submits that as mentioned in para No. 9 of the petition, which reads as under :

“The Will of the deceased refers to Bank Accounts in various Bank Fixed Deposits, shares, and securities. However, it appears that the deceased had during his lifetime already transferred / distributed the same amongst his heirs. The same are therefore, not shown in the Schedule No. I of properties (being Exhibit ‘C’ hereto)”.

10. Petitioner has executed the administration Bond dated 26.07.2024 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

19.08.2024

FIRST ASSISTANT MASTER