

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 9th August, 2024

CALLED FOR COMPLIANCE :

43 TP/2400/2024) Ms. Geeta Sonawane, 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 Dr.
) Purushottam Narayan Badhe (herein after the same is
) referred to as “Testator”), for grant of Letters of
) Administration with Will annexed. Testator said to have
) died on 07.08.2022 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 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 being 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 23.03.2021, 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 Pushpa Purushottam Badhe
) predeceased to him. Her death certificate annexed to the
) petition at Exhibit – “E”. Testator died leaving behind
) two sons namely Dr. Bhupendra Purushottam Badhe –
) petitioner herein and Dr. Vikram P. Badhe and2

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) had no any daughter. Consent Affidavit of Dr. Vikram P. Badhe dated 24.04.2024 is on record. He has given his consent in the form of Affidavit, which is 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 his share in the estate of the testator. He has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the Testator other than mentioned in para 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 01.07.2024. Notice to collector has been sent.

) 7. The petitioner has filed the Affidavit of Rajesh S. Bhojwani dated 18.04.2024, 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. 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 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 Schedule No.I, hereto annexed & marked Exhibit – 'C', all the property & credits which the deceased died possessed of or entitled to at the time of his3

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death, which 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 are mentioned in the Schedule-I of the petition.

9. As mentioned in para No. 7 of the petition, Testator had Saving Bank Account in HDFC Bank Ltd. held in the joint name with his wife namely Pushpa Badhe, which was closed after the death of deceased and proceeds of the said Accounts was transferred to Nominee i.e. Dr. Vikram P. Badhe. Testator also had Saving Bank A/c. in Saraswat Co-Operative Bank Ltd., which held was in joint names with the testator’s wife namely Pushpa Badhe. The said account was closed after the death of testator and amount therein transferred to the petitioner.

Testator had also PPF Account which was held in single name which was closed during his lifetime and proceeds transferred in the saving account of HDFC Bank. Ld. Advocate for the petitioner submits that testator had distributed his jewellery to his both sons during his lifetime. Therefore, all these Saving Accounts have not been shown in Schedule I of this petition by petitioner.

10. Ld. Advocate for petitioner also confirms details / description mentioned in Schedule I of the petition.

11. Petitioner has executed the Administration Bond dated 05.07.2024, 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.

09.08.2024

FIRST ASSISTANT MASTER

