

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 5th August, 2024**

CALLED FOR COMPLIANCE :

39 TP/2439/2024) Mr. Jayant Wani, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole legatee
) named under the Will executed by Bilkish Meheboob
) Jamadar (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 28.06.2020
) 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- A1), Will, petitioner's oath.
)
) 2. The petitioner has explained the delay in para No.
) 11 of the petition 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 sole legatee 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
) Mumbai on 09.12.2004, 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 testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No. 9 of the petition, as
) per the provisions of the Mohammedan Law applicable
) to Sunni Muslim. Parents of testatrix, parents and
) Grand-parents of Husband of testatrix, husband of
) testatrix were predeceased to testatrix. Husband of the
) testatrix namely Meheboob Dastagir Jamadar died on
) 17.03.1996 and his death certificate is annexed to
)

CONTD....

- 2 -

39 TP/2439/2024

) the petition as Exhibit - "E". Testatrix died leaving
) behind only unmarried daughter namely Saeedabanu
) Meheboob Jamadar and no son. The petitioner affirmed
) that there are no other legal heirs of the testatrix other
) than mentioned in para No.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 03.06.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Saira Bilal
) Shaikh dated 14.03.2024, 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 she was present and testatrix 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 deposed
) that testatrix has signed the Will in presence of two
) witnesses and put her left-hand thumb impression
) along with signature in Hindi vernacular language at the
) time of execution of Will after she fully understood the
) contents of the Will which was explained and
) interpreted by her Advocate to the testatrix. Hence,
) there is sufficient compliance of Rule 419 of the
) Bombay High Court (Original Side) Rules, 1980. Will
) is duly registered before Joint Sub-Registrar, Borivali
) No. 2 under registration No. BDR-12711/2004.
) 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 para 6 of the3

CONTD...

– 3 –

39 TP/2439/2024

petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I. Hereto is annexed and marked Exhibit “C” to the petition all property and credits which the deceased died possessed of or was entitled to at the time of her death, which have or are likely to come to her hands. So far as the Petitioner have been able to ascertain or is aware, that there are no properties and credits other than what are specified in the Schedule No. I attached to the petition, rest of properties referred in the Will but not mentioned in the Schedule of Assets like movable property i.e. Gold Ornament Worth 20 Gram has been given to Miss Saeedabanu Meheboob Jamadar before her death, before execution of Will, therefore not claimed in the above petition”.

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. As per requisition No. 1 raised in the order dated 22.07.2024, which reads as “To comply with the provisions of rule 397 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for petitioner submits that as mentioned in para No. 9 of the petition, all sharer as per the Mohammedan Law applicable to Sunni Muslim has already been explained by the petitioner on the oath. She is only daughter of testatrix.

10. As per requisition No. 2 raised in the order dated 22.07.2024, which reads as “To comply with the provisions of rules 383 and 419 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for petitioner submits that Affidavit Attesting Witness namely Saira Bilal Shaikh dated 14.03.2024, has explained all additions in para No. 3 of her Affidavit in detail. He further submits that there is typographical mistake in para No. 3 of the said Affidavit as ‘Room No. 2’, which should be read as ... 4

CONTD....

– 4 –

39 TP/2439/2024

)
) 'Room No. 1' in handwritten address of Saira Bilal Shaikh.
)

) 11. As per requisition No. 3 raised in the order dated
) 22.07.2024, which reads as "To file Administration
) Bond".
)

) As per order passed by the Hon'ble Court in
) Testamentary Petition No. 2918 of 2023 dated
) 02.02.2024 wherein the Hon'ble Court has directed
) department that where all the surviving legal heirs of
) deceased are petitioners before the Court and rights or
) interest of no other legal heir is required to be protected,
) department shall not insist on a furnishing
) Administration Bond. 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
)

05.08.2024

FIRST ASSISTANT MASTER