

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

CALLED FOR COMPLIANCE :

44 TP/2440/2024) 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 Pushpa
) Purushottam Badhe (herein after the same is referred to
) as “Testatrix”), for grant of Letters of Administration
) with Will annexed. Testatrix said to have died on
) 06.04.2021 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, 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
) 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 testatrix were
) predeceased to her and testatrix was survived by legal
) heirs shown in the paragraph No. 8 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Husband of testatrix namely Dr. Purushottam N. Badhe
) died on 07.08.2022. Testatrix died leaving behind two
) sons namely Dr. Bhupendra Purushottam Badhe –
) petitioner herein and Dr. Vikram P. Badhe and had no
) daughter.
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) 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 testatrix. He has waived the
) service of Citation. The petitioner affirmed that there
) are no other legal heirs of the testatrix 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 witness 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. 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 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 of3

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her death, which are likely to come to his hands”.

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 mentioned in para No. 7 of the petition, testatrix was having Saving Bank Account in Bank of India which is held in the joint name with her husband Dr. Purushottam Badhe. The said account was closed and proceeds of the said accounts was transferred to her husband’s account. Also, testatrix had saving Bank Account in HDFC Bank Ltd. which was also held in the joint name with her husband, Dr. Pushottam Badhe, which was closed and proceeds of the said accounts was transferred to her husband’s account. Testatrix’s had also Saving Bank Account in Saraswat Co-Operative Bank Limited, which was in joint names with her husband namely Dr. Purushottam Badhe. The said account was closed after the death of Dr. Purushottam Badhe and proceeds of the said account was transferred to Dr. Bhupendra Badhe – petitioner herein.

Therefore, all these savings Accounts have not been shown in Schedule I of this petition by petitioner.

Ld. Advocate for petitioner submits that testatrix had distributed her jewellery to her both sons in equal shares during her lifetime.

Ld. Advocate for petitioner confirms the details / descriptions mentioned in Schedule I of the petition.

10. 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.

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- 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**