

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

CALLED FOR COMPLIANCE :

48 TP/2475/2024) Ms. Bina S. Shivhare, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries / legatees named under the Will executed
) by Geeta Govind Charania (herein after the same is
) referred to as “Testatrix”), for grant of Letters of
) Administration with Will annexed. Testatrix said to
) have died on 07.01.2023 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
) / legatees 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
) 14.12.2017 on Mumbai, in English language. Ld.
) Advocate for the 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 husband 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 Hindu Succession Act, 1956.
) Testatrix died leaving behind only son namely Manish
) Govind Charania – petitioner herein and only daughter
) namely Jyoti Yogendra Patil. Consent Affidavit of Jyoti
) Yogendra Patil dated 22.03.2024 is on record.2

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She has given her 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 her share in the estate of the testatrix. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 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 27.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Damyanti Jaisinh Kantharia dated 02.04.2024, one of Attesting Witnesses 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. Will is duly registered before Joint Sub-Registrar, Mumbai City No. 5 under registration No. BBE-5/8366-2017. 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 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 time3

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) of her demise, which have / are likely to come to
) her hands. So far as the Petitioner has been able to
) ascertain or is aware, there are no property and
) credits other than what are specified in the
) Schedule attached to the 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. Petitioner has executed the administration Bond
) dated 22.06.2024, 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.

09.07.2024

FIRST ASSISTANT MASTER