

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

CALLED FOR COMPLIANCE :

46 TP/2476/2024) Mr. Satyam Pandey i/b. R. Bhargavan, Advocate for
) petitioner
)

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole beneficiary
) named under the Will executed by Mohana Nanabhai
) Mhatre (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 17.06.2007
) at Mumbai. Petitioners filed the copy of death certificate
) (which is annexed to petition as Exhibit- A), identity
) proof of the testatrix (at page Nos. 18 and 19). Ld.
) Advocate for petitioner submits that petitioner has
) annexed ration card and bank passbook of the testator as
) identity proof, Will, petitioner's oath, affidavits of legal
) heirs of the testatrix.
)
) 2. The petitioner has explained the delay in para 11 of
) the petition vide 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 sole beneficiary 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 on
) 28.04.2007 at Mumbai, 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. 6 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Husband of the testatrix namely Nanabhai Khanderao
) Mhatre predeceased the testatrix. Testatrix had only son
) namely Girish Nanabhai Mhatre and he predeceased the
) testatrix on 28.08.2000, leaving behind his wife2

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namely Asha Girish Mhatre – petitioner herein. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para 6 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 29.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit and Additional Affidavit of Dinesh Sadhu Shetty dated 03.02.2024 and 16.07.2024 respectively, 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 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. Ld. Advocate for petitioner has filed Additional Affidavit of Dinesh Shetty and deposed that "I say that on 28th day of April, 2007 I was present along with Dr. Meena Shringarpure at the House of the deceased Smt. Mohana Nanabhai Mhatre and I then and there saw that the deceased set and subscribed her signature at the foot of the testamentary paper in English Language. I was present there alongwith Dr. Meena Shringarpure and we both requested her to put her thumb impression as her hand was trembling due to her old age and health conditions. I say that Smt. Mohana Nanabhai Mhatre was 91 years at the time of signing the Will. She was an educated lady and she knew very well what she was signing". Attesting witness further deposed that at the time of execution of Will, testatrix has put her signature and affixed her thumb impression on the Will and also deposed that though she was 91 years old, 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. .3

9. Petitioner has executed the administration Bond dated 8th July, 2024, in the prescribed format. Hence, following order:

1) Petition is granted.

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

FIRST ASSISTANT MASTER