

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 28th June, 2024**

CALLED FOR COMPLIANCE :

50 TP/2478/2024) Mr. Rahul Jain, Advocate for petitioner

-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Durgesh
) Sanjivrao Bailoor (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 18.12.2019
) 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 explained the delay in para 10 of
) the petition 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 legatees
) 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 16.06.2013, 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 testator namely Aparna Durgesh Bailoor died at
) Mumbai on 17.03.2005. Testator died leaving behind
) two sons namely Kaustubh Durgesh Bailoor and Tapan
) Durgesh Bailoor – Petitioner herein. Consent Affidavit
) of Kaustubh Durgesh Bailoor dated 29.12.2023 is on
) record. He has given his consent in the2

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) form of Affidavits, 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 par 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 04.06.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Shailesh
) Chandanlal Bhatia dated 30.12.2023, 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 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-I 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 :

) "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 time of his
) death which have or are likely to come to the
) petitioner hands. So far as the Petitioner3

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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”

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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. Petitioner has executed the Administration Bond dated 28.05.2024, 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

28.06.2024

FIRST ASSISTANT MASTER