

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 7th August, 2024**

CALLED FOR COMPLIANCE :

56 TP/2484/2024) Ms. Geeta Sonawane i/b. Denzil Dmello, 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 Ivan
) Charles Parera (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 09.01.1998
) 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, Affidavits of legal heirs of the
) testator.
)
) 2. The petitioner has explained the delay in para 11 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 beneficiaries
) 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 16.07.1997, 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. 9 of the petition, as
) per the provisions of the Indian Succession Act, 1925
) applicable to Christian. Testator died leaving behind his
) wife namely Yvonne Parera – petitioner herein and only
) son namely Russell Ivan Parera and only daughter
) namely Raechelle Jillian Parera Menezes.2

CONTD....

- 2 -

56 TP/2484/2024

) Consent Affidavits of Russell Ivan Parera dated
) 02.04.2024 and Raechelle Jillian Parera Menezes dated
) 05.04.2024 are on record. They have given their consent
) in the form of Affidavits, which are 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 their shares in the estate of the testator. They have
) waived the service of Citation. The petitioner affirmed
) that there are no other legal heirs of the testator 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 18.06.2024. Notice to
) collector has been sent.
)

) 7. The petitioner has filed the Affidavit of Thandykkal
) Madhavan Bhuvandas dated 05.04.2024, 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 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 deposed that Will is on a Rs.20/- stamp papers
) with the required official stamps. The contents on the
) written page No. 1 was on the stamp paper and contents
) written on page Nos. 2 and 3 and execution clause at
) page No. 3 is in handwriting of the testator. He further
) deposed that Will is in proper handwriting of the
) testator. Attesting witness 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.
)

.....3

CONTD....

– 3 –

56 TP/2484/2024

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 and marked Exhibit – “C”, all the property & credits which the deceased died possessed of or entitled to at the time of his death, which are likely to come to her hands”.

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. As per order requisition No. 1 raised in the order dated 18.07.2024, which reads as “To explain delay properly”.

Ld. Advocate for petitioner submits that delay is already explained in para 11 of the petition.

10. As per order requisition No. 2 raised in the order dated 18.07.2024, which reads as “Advocate for petitioner should be provided type copy of the Will”.

Ld. Advocate for petitioner has provided typed copy of the Will and undertakes to upload the same on the official portal of the Bombay High Court.

11. As per order requisition No. 3 raised in the order dated 18.07.2024, which reads as “Properties mentioned in the Schedule of U. P. and Karnataka. Advocate to explain”.

Ld. Advocate for petitioner submits that as per residuary clause in the Will, testator has bequeathed any other property that might accrued from his estate due to inheritance from earlier generation is also bequeathed to his wife i.e. petitioner herein. Hence, property at Sr. No.7 of the Schedule No. 1 has been included accordingly.

12. Petitioner has executed the Administration Bond dated 18.07.2024, in the prescribed format. Hence, following order:

....4

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

07.08.2024

FIRST ASSISTANT MASTER