

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 26th July, 2024**

CALLED FOR COMPLIANCE :

15 TP/2485/2024) Mr. Kunal Sunil Jadhav, Advocate for petitioners
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioners.
) This petition is filed by petitioners, both being
) beneficiaries named under the Will executed by Baban
) Shripati Gole (herein after the same is referred to as
) “Testator”), for grant of Letters of Administration with
) Will annexed. Testator said to have died on 20.09.2023
) at Pune. Petitioners have 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 filed petition within prescribed
) limit 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 petitioners are being beneficiaries named
) under the Will. Hence, petition is tenable.
)
) 4. Petitioners have stated that the testator left behind
) his last Will and Testament which was duly executed at
) Mumbai on 28.01.2019, 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. Petitioners have stated that parents and wife 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 Hindu
) Succession Act, 1956. Testator died leaving behind two
) sons namely Sachin Baban Gole and Santosh Baban
) Gole. Consent Affidavits of Sachin Baban Gole and
) Santosh Baban Gole both dated 03.01.2024 are on
) record.
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CONTD....

– 2 –

15 TP/2485/2024

) They have given their consents 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 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 18.07.2024. Notice to
) collector has been sent.

) 7. The petitioner has filed the Affidavit of Suryakant
) Dattaram Ramane dated 03.01.2024, 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 put his
) thumb impression 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 Nanda Kadu, Advocate
) was present at the time of execution of Will and she
) explained the contents of the Will to the testator in
) Marathi language. She had mentioned at page No.3
) "Interpreted and explained by me" and also put her
) signature. Hence, Rule 419 of the Bombay High Court
) (Original Side) complied with. 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 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,3

CONTD....

– 3 –

15 TP/2485/2024

which reads as under :

“That the Petitioners has truly set forth in the Schedule No. I, hereto annexed and marked Exhibit – “C” the property and credits which the deceased died possessed or entitled to at the time of his death and which have or are likely to come to the petitioners hands. So far as the Petitioners 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 testator at the time of his death are mentioned in the Schedule – I of the petition.

9. Petitioner has executed the administration Bond dated 04.07.2024, 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.

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.

26.07.2024

FIRST ASSISTANT MASTER