

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 20th September, 2024

CALLED FOR COMPLIANCE :

46 TP/2579/2024) Ms. Praneeta Mokal i/b. Krishna Mohanlal Thacker,
) 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 Anil Savji
) Shah (herein after the same is referred to as “Testator”),
) for grant of Letters of Administration with Will
) annexed. Testator said to have died on 28.05.2023 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 testator.
)
) 2. The petitioner has filed the present 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 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 22.05.2023, 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 her 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.
) Testator died as bachelor. Testator has three brothers and
) one sister. Testator’s three brothers are namely Ramesh
) Savji Shah, Satish Savji Shah – petitioner herein and
) Arvind Savji Shah. One brother namely Arvind Savji
) Shah died on 25.05.2020 leaving behind his2

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) wife Hansa Arvind Shah, son namely Sameer Arvind
) Shah and daughter Meghna Shailesh Bhambani.
) Testator had only sister namely Hansa Chandrakant
) Shah. Consent Affidavits of Ramesh Saviji Shah, Hansa
) Arvind Shah and Hansa Chandrakant Shah, Sameer
) Shah and Meghna Shailesh Bhambani all dated
) 28.03.2024 are on record. 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 No. 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 19.06.2024. Notice to
) collector has been sent.
)

) 7. The petitioner has filed the Affidavits and
) Additional Affidavits of Anand Dadaso Torse and
) Narayan Rangrao Torse dated 28.03.2024 and
) 16.09.2024 respectively, both are being the Attesting
) Witnesses to the Will, in the Form No.102 of the
) Bombay High Court (Original Side) Rules, 1980. They
) deposed that they were present and testator signed on
) the Testament papers in presence of both of them.
) According to them, 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 Witnesses deposed that on
) 22.05.2023, they were present and the testator has
) signed the Will before both of them. They 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.
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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 No. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule-I, hereto annexed and marked as Exhibit ‘C’ all the properties and credits which the deceased was possessed of or entitled to at the time of his death, which have or are likely to come to the petitioner’s 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 requisition No. 1 raised in the order dated 25.07.2024, which reads as “As per Will, there are beneficiaries. Hence, Ld. Advocate to file consent Affidavits of the said beneficiaries”.

Ld. Advocate for petitioner submits that as per Will there are beneficiaries namely Paras Shah, Malini Shah, Ramesh Saviji Shah, Hansa Arvind Shah, Hansa Chandrakant Shah, Sameer Shah and Meghna Shailesh Bambani. 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.

10. As per requisition No. 2 raised in the order dated 25.07.2024, which reads as “To file Affidavit of Attesting Witness as per rule 383 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for petitioner has filed Additional Affidavits of Anand Dadaso Torse and Narayan Rangrao Torse both dated 16.09.2024 in support of execution of Will.

11. Petitioner has executed the Administration Bond dated 28.03.2024, in the prescribed format.4

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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.

20.09.2024**FIRST ASSISTANT MASTER**