

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date : 12th November, 2024**

CALLED FOR COMPLIANCE :

43 TP/2588/2024) Mr. Malcolm Vaz i/b. Sanjay Rego, Advocate for
) petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioners namely Deepa Gujral
) Prakash and Brinda Pramod Malhotra being legatees
) named under the Will executed by Vidya Jagdish Gujral
) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 22.10.2023 at Mumbai.
) Petitioners have 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.
)
) 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 testatrix has not appointed Executor to execute
) the Will. The petitioners are being legatees named
) under the Will. Hence, petition is tenable.
)
) 4. Petitioners have stated that the testatrix left behind
) her last Will and Testament which was duly executed at
) Mumbai on 16.05.2013 in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1049 of 2024 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 husband of
) testatrix were predeceased to her and testatrix was
) survived by legal heirs shown in the paragraph No. 7 of
) the petition, as per the provisions of the Hindu
) Succession Act, 1956. Testatrix died leaving behind two
) daughters namely Deepa Gujral Prakash – petitioner No.
) 1 and Brinda Pramod Malhotra – petitioner No. 2.
) Testatrix has no son.2

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The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para No. 7 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 06.08.2024. Notice to collector has been sent.

7. The petitioners have filed the Affidavits of Rajesh Bijlani and Mohit Yadav both dated 23.12.2023, both the Attesting Witnesses to the Will, in the Form No.102 of the Bombay High Court (Original Side) Rules, 1980. Attesting Witnesses deposed that they were present and testatrix 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. Will is duly notarized before Ram Bijlani, Notary Greater Mumbai. Attesting witness further deposed that at the time of execution of the Will, testatrix 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. Ld. Advocate for petitioner submits that as mentioned in para No. 8 of the petition, which reads as under :

“That the Petitioners have truly set forth in Schedule-I, hereto annexed and marked as Exhibit “C” are all the property and credits which the deceased died possessed of or entitled to at the time of her death, which have or are likely to come to her hands. So far as the Petitioner has been able to ascertain or is aware there are no other properties and credits other than what are specifically mentioned in the Schedule – I3

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annexed to the petition herein”.

The Ld. Advocate for the petitioner submitted that properties available to the testatrix at the time of her death are mentioned in the Schedule – I of the petition.

Ld. Advocate for petitioner submits that properties mentioned in Schedule - I of the petition bequeathed by testatrix's to her daughters namely Deepa Gujaral Prakash – petitioner No. 1 and Brinda Pramod Malhotra – petitioner No. 2 in equal share i.e. 50% each.

9. As per requisition No. 1 raised in the order dated 04.10.2024, which reads as “As per Will, there are beneficiaries. Hence, file Affidavits of the said beneficiaries”.

In para No. 4 of the Will, testatrix has bequeathed Rs.5 lakhs to her granddaughter Jhataleke Malhotra. Said Jhatalek Malhotra has filed her Affidavit dated 10.10.2024 which is on record. She stated on oath that sum of Rs.5 lakhs have been deposited with the Indian Bank, Lokhandawala Branch as Fixed Deposit for her benefits. She further stated on oath that as per Will, Rs.5 lakhs has been paid to her and she had no claim in respect of the said bequeath.

10. As per requisition No. 2 raised in the order dated 04.10.2024, which reads as “To check para No. 5 of the petition”.

Ld. Advocate for petitioner has carried out corrections and complied with the same.

11. As per requisition No. 3 raised in the order dated 04.10.2024, which reads as “To check oath of Petitioner”.

Ld. Advocate for petitioner has carried out corrections and complied with the same.

12. As per requisition No. 4 raised in the order dated 04.10.2024, which reads as “To file Affidavit of Attesting Witness as per Rule 383 of the Bombay High Court (Original Side) Rules, 1980”.

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Ld. Advocate for petitioner has filed Affidavit of Attesting Witness and complied with the same.

13. As per requisition No. 5 raised in the order dated 04.10.2024, which reads as “To explain the legal heirs of deceased as per Rule 397 of the Bombay High Court (Original Side) Rules, 1980”.

Ld. Advocate for petitioner has explained the legal heirs of deceased as per Rule 397 of the Bombay High Court (Original Side) Rules, 1980 in para No. 7 of the petition and complied with the same.

14. Petitioner has executed the Administration Bond dated 06.08.2024 and 11.09.2024 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.

12.11.2024

FIRST ASSISTANT MASTER