

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 14th August, 2024

CALLED FOR COMPLIANCE :

27 TP/2607/2024) Ms. Jyoti Badgajar i/by M/s. Lakdawala and co,
) Advocate for petitioner
)
)
) **P.C.:** 1. This petition is filed by petitioners, both are being
) legatees named under the Will executed by Mohanlal
) Naraindas Vaswani (herein after the same is referred to
) as “Testator”), for grant of Letters of Administration
) with Will annexed. Testator said to have died on 28th
) October, 2013 at Mumbai. 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-A-1), Will, petitioner's
) oath.
)
) 2. The petitioners have explained the delay in para No.
) 8a of the petition as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980. Ld. Advocate for
) petitioner has carried out corrections on 13.08.2024 and
) added in para No. 8a of the petition.
)
) 3. The testator has not appointed executor to execute
) the Will. The petitioners are being one of the
) beneficiaries named under the Will. Hence, petition is
) tenable.
)
) 4. Petitioners stated that the testator left behind his last
) Will and Testament which was duly executed at Mumbai
) on 16th November, 2006, in English language. Ld.
) Advocate for petitioner submits that the original Will
) without annexures 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 on oath that mother of
) testator was 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 Savita
) Mohanlal Vaswani died on 30th October, 2006 and her
) death certificate is annexed as Exhibit – “D”.2

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)
) Testator died leaving behind two daughters namely
) Simran Raju Chugani - Petitioner No.1 herein and
) Karishma Anil Ajwani-Petitioner No.2 herein and had
) no son. 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 26th June, 2024. Notice
) to collector has been sent.
)

) 7. The petitioners have filed the Affidavit of Veena
) Bhagwan Bhavnani dated 8th April, 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 witness was
) present and testator signed on the Testament papers in
) presence of her and another witness. According to her,
) 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 of the petition
) are referred in the Will. Ld. Advocate for petitioner
) submits that as mentioned in para no. 6 of the petition,
) which reads as under :
)

) "That the Petitioners has truly set forth in Schedule
) No. I, hereto annexed 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 their hands. Rest
) all properties referred in the Will but not claimed in
) the Schedule as they have been disposed of after
) execution of Will".
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The Ld. Advocate for the petitioners 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 26th July, 2024, which reads as “To verify annexures mentioned in para 4 of the Will has not been submitted with the Registry alongwith the Will”.

Ld. Advocate for the petitioners as filed Affidavit of Simran Raju Chugani dated 1st August, 2024 - Petitioner No.1 and Veena Bhagwan Bhavanani - Petitioner No.2 dated 2nd August, 2024 and stated that there were no annexures.

10. As per requisition No. 2 raised in the order dated 26th July, 2024, which reads as “Properties mentioned in the Will and not shown in the Schedule”.

Ld. advocate for the petitioners submits that as mentioned in para No. 4 of the Will, petitioners have mentioned properties in Schedule I of the petition and in para No. 6 of the petition petitioners have stated on oath that rest all properties referred in the Will but not claimed in the Schedule I of the petition have been disposed of after execution of Will.

11. Ld. Advocate for petitioners submits that as per the order passed by the Hon’ble Court in Testamentary Petition No. 2556 of 2022 and Testamentary Petition No. 2559 of 2022 dated 28.02.2023, wherein the Hon’ble Court has directed to Registry that whenever Class I legal heirs of the deceased is sole legal heir then not to insist for filing / furnishing of Administration Bond. Ld. Advocate for petitioner submits that in this petition, petitioners are beneficiaries named under the Will hence, Administration Bound is not required. Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with Will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioners till the4

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- 27 TP/2607/2024) original annexures to Will produced 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

14.08.2024**FIRST ASSISTANT MASTER**