

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 6th August, 2024**

CALLED FOR COMPLIANCE :

31 TP/2648/2024) Mr. Prabhu Velar i/b. Seema Hunnurkar and Associates,
) Advocate for petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole legatee
) named under the Will executed by Chandan
) Chandrakant Sheth (herein after the same is referred to
) as “Testatrix”), for grant of Letters of Administration
) with Will annexed. Testatrix said to have died on
) 21.05.2023 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 alongwith
) official translation, petitioner's oath, Affidavits of legal
) heirs of the testator.
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) 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 appointed Jaswantlal Shah and
) Dilip Parekh as executors of his Will. Said Executors
) have filed Affidavits and have renounced their rights
) and interest to apply for Probate. Affidavits for
) renouncing their rights of executorship, both dated
) 04.03.2024 are on record. Hence, the petitioner is
) being the sole legatee named under the Will, is entitled
) to present the petition.
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) 4. Petitioner stated that the testator left behind his last
) Will and Testament which was duly executed at
) Mumbai on 24.07.1996, in Gujarati 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. Ld. Advocate for
) petitioner submits that official translation of the Will is
) on record.2
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5. Petitioner states that husband of testatrix was predeceased to her and testatrix was survived by legal heirs shown in the paragraph No. 8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Husband of the testatrix namely Chandrakant Valabhdas Sheth died on 25.11.2023 and his death certificate has been annexed to the petition as Exhibit – D to the petition. Testatrix died leaving behind only son namely Chirag Sheth – petitioner herein and two married daughters namely Jagruti Nirav Vora and Toral Deven Thakkar. Consent Affidavits of Jagruti Nirav Vora and Toral Deven Thakkar both dated 04.03.2024 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 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 30.05.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Dr. Anop S. Shah dated 04.03.2024, 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 testatrix 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 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

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accept the execution of the Will and

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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 No. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule No.I hereto annexed and marked as 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 the petitioner’s hands. So far as the Petitioner has been able to ascertain or is aware, there are no property and credits other than what are specified in Schedule No. I attached to the petition”.

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

9. Testatrix bequeathed his property to her husband namely Chandrakant Vallabhdas Sheth alone and she further wish that if both of them died then the property will be bequeathed to his son namely Chirag Sheth – petitioner herein. Hence, petitioner is sole surviving legatee named under the Will. Other legal heirs namely Jagruti Vora and Toral Thakkar, both are being daughters of testatrix have given their consents in favour of Petitioner.

10. Ld. Advocate for petitioner seeks to carry out corrections in Schedule I by deleting Sr. No. 4 (Right, title and interest in respect of other assets (movable and immovable properties, if any found in future standing in the name testator). The said corrections are allowed. Ld. Advocate for petitioner had carried out corrections forthwith.

Ld. Advocate for petitioner undertakes to upload the corrected Schedule I on the official portal of the Bombay High Court.

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The said undertaking is accepted.

11. Petitioner has executed the Administration Bond dated 31.05.2024, 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.

06.08.2024

FIRST ASSISTANT MASTER