

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 24th October, 2024**

CALLED FOR COMPLIANCE :

46 TP/3219/2024) Mr. D. R. Mishra, 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 Shreenivas
) Neelkanth Talwalkar (herein after the same is referred
) to as “Testator”), for grant of Letters of Administration
) with Will annexed. Testator said to have died on
) 18.01.2021 at Ahmedabad, Gujarat. 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- A), Will, petitioner's
) oath.
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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 not appointed Executor to execute
) the Will. The petitioner is being sole legatee 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 26.01.2017, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1308 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. Petitioner states that parents of testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 10 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died leaving behind his wife namely
) Dhanashree Shreenivas Talwalkar – petitioner herein.
) The petitioner affirmed that there are no other legal
) heirs of the testator other than mentioned in para No. 10
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of the petition.

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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 petitioner has filed the Affidavit of Nitin G. Thakkar dated 19.03.2024, 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 testator 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, 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 Petitioner has truly set forth in Schedule No.I hereto annexed and marked Ex : “C”, all the properties 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 his hands so far as the Petitioner has been able to ascertain or is aware there is no property and credits other than what are specified in 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.

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Ld. Advocate for petitioner submits that testator has bequeathed all his movable and immovable properties to his wife Dhanashree Shreenivas Talwalkar – petitioner herein. Since, wife of the testator is petitioner herein to whom all the movable and immovable properties has been bequeathed absolutely. Hence, conditional bequeath is not applicable as mentioned in Will.

9. Ld. Advocate for petitioner submits that as per order passed by the Hon'ble Court in Testamentary Petition No. 2556 and 2022 and Testamentary Petition No. 2559 of 2022 dated 28.02.2023, the Hon'ble Court has directed the Registry not insist for filing / furnishing of Administration Bond in all matters wherein the petitioner is sole legal heir, who is class I legal heirs. Hence, petitioner has not furnished Administration Bond in this matter. 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.

24.10.2024

FIRST ASSISTANT MASTER