

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 21st October, 2024

CALLED FOR COMPLIANCE :

31 TP/3347/2024) Mr. P. R. Chaurasia, Advocate for petitioner

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-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
-) This petition is filed by petitioner, being legal
-) representative of one of the legatees named under the
-) Will executed by Tarlochan Singh Pritam Singh Kalsi
-) (herein after the same is referred to as “Testator”), for
-) grant of Letters of Administration with Will annexed.
-) Testator said to have died on 13.08.2021 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, 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 not appointed Executor to execute
-) the Will. The petitioner is being representative of one of
-) the legatees named under the Will. Hence, petition is
-) tenable.
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-) 4. Petitioner stated that the testator left behind his last
-) Will and Testament which was duly executed at
-) Mumbai on 08.10.2020, in English language. Ld.
-) Advocate for petitioner submits that the original Will
-) No. 1353 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.
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-) 5. Petitioner states that parents of testator were
-) 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.
-) Testator died leaving behind his wife namely Sukhwant
-) Kaur. Testator has two sons and two daughters.
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Testator's two sons are namely

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Prabhjeet Singh Kalsi – petitioner herein and Gurvinder Singh Kalsi and two daughters are namely Rajinder Kaur Shinh and Amarjeet Kaur Kalsi. Consent Affidavits of Sukhwant Kaur dated 06.04.2024, Gurvinder Singh Kalsi dated 06.04.2024, Rajinder Kaur Shinh dated 06.04.2024 and Amarjeet Kaur Kalsi dated 06.04.2024 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 12.08.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavits of Suresh Punjalal Patel and Pinttu Rajendra Chaurasia dated 14.10.2024 and 06.04.2024 respectively, both are being 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 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. Will is duly registered before Joint Sub-Registrar, Mumbai City – 3, under registration No. BBE-3-III/6426/2020. 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.

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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 Exhibit – “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 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 25.09.2024, which reads as “To verify relation of Amarjit Kaur Kalsi with deceased which was mentioned at Sr. No.5, in para No. 8 of the petition. Also, on page No. 27 of the Will, whether sister or daughter. Ld. Advocate to explain”.

Ld. Advocate for the petitioner has carried out corrections in petition on 18.10.2024 to correct relation of the said Amarjeet Singh Kalsi as daughter. Also, corrected petition has been uploaded on the official portal of the Bombay High Court (Original Side) Rules, 1980.

10. As per requisition No. 2 raised in the order dated 25.09.2024, which reads as “As per Will, there are liabilities mentioned for one of the son of deceased namely Gurvinder Singh Kalsi”.

Ld. Advocate for petitioner has filed Consent Affidavit of Gurvinder Singh Tarlochan Singh Kalsi. He stated on oath that he has having many liabilities and all the liabilities are taken by him in the name of his father. He accept the responsibilities for all the liabilities and declared that he will be paying all the liabilities and reimbursement from his share in the property or from

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his earnings. He further undertakes that he will never demand money from other legal heirs of his father.4

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Ld. Advocate for petitioner submits that since liabilities mentioned in the Will had been accepted and have undertaken to pay the same by the abovesaid Gurvinder Singh Kalsi. Hence, the said objection is complied with.

11. As per requisition No. 3 raised in the order dated 25.09.2024, which reads as “As per Will, there are beneficiaries. Hence, file Consent Affidavits of the said beneficiaries”.

Ld. Advocate for petitioner submits that as per Will, testator has bequeathed his jewellery and other ornaments to his grandchildren equally. The said jewellery and other ornaments are more particularly described in Schedule - D. Ld. Advocate for petitioner has filed Affidavit of Gurvinder Singh Kalsi. He stated on oath that he had received 64.760 grams jewellery and other ornaments which was in his custody. He further stated that his father has bequeathed jewellery and ornaments to his grandchildren namely Arjan Singh Gurvinder Singh Kalsi, Lakhprit Gurvinder Singh Kalsi, Annantjyot Kaur Prabjeet Singh Kalsi and Jasjot Kaur Prajbeet Singh Kalsi all of them are minor. Hence, he undertakes and declared that once they all are attain majority, he would handed over their shares without fail.

12. As per requisition No. 4 raised in the order dated 25.09.2024, which reads as “To check the description mentioned in the Schedule I annexed to the petition”

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

13. As per requisition No. 5 raised in the order dated 25.09.2024, which reads as “Advocate on record is one of the Attesting Witness to the Will. Advocate to explain”.

Ld. Advocate for petitioner submits that there are two Attesting Witnesses namely Pinttu Rajendra Prasad

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Chaurasia- Advocate on record and Suresh P. Patel. Ld. Advocate for petitioner has filed Affidavit of another Attesting Witness Suresh P. Patel 5

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dated 14.10.2024 to prove the Will, which is on record.

14. As per requisition No. 6 raised in the order dated 25.09.2024, which reads as “To file consent Affidavit of Amarjit Kaur Singh”.

Ld. Advocate for petitioner has filed Consent Affidavit dated 06.04.2024 of Amarjeet Singh Kalsi and re-upload. Hence, objection is complied with accordingly.

15. As per requisition No. 7 raised in the order dated 25.09.2024, which reads as “Properties mentioned in the Will and not shown in the Schedule”.

Ld. Advocate for petitioner submits that all the properties mentioned in the Will are shown in the schedule. Statement made by the Ld. Advocate for petitioner is accepted.

16. Petitioner has executed the Administration Bond dated 22.08.2024 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.

21.10.2024

FIRST ASSISTANT MASTER