

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 11th November, 2024

CALLED FOR COMPLIANCE :

35 TP/3439/2024) Ms. Natasha Kasad i/b. D. B. Pereira, Advocate for
) petitioner
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-) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner namely Naresh Singh
) Chawla, being sole beneficiary named under the Will
) executed by Guinea Simplicio Lopez (herein after the
) same is referred to as “Testatrix”), for grant of Letters
) of Administration with Will annexed. Testatrix said to
) have died on 26.03.2024 at Mumbai. Petitioner 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, Affidavits of legal heirs of the testatrix.
)
) 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. Ld. Advocate for the petitioner submits that in
) para No. 8 of the Will the word “Executor” is
) mentioned but no name has been specified in the Will.
) Ld. Advocate for petitioner further submits that as
) mentioned in para No. 5 of the petition by petitioner on
) oath that testatrix has not appointed any Executor in the
) Will. Since, no Executor is appointed expressly in the
) Will, Letters of Administration with Will is
) maintainable. That the petitioner is being sole
) beneficiary. Hence, petition is tenable.
)
) 4. Petitioner stated that the testatrix left behind her
) last Will and Testament which was duly executed at
) Mumbai on 28.12.2012, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1375 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 testatrix were
) predeceased to her and testatrix was survived by legal
heirs shown in the paragraph No. 10 of the2

petition, as per the provisions of the Indian Succession Act, 1925 applicable to Christian. Testatrix died as spinster. Testatrix had two sisters namely Abcia Chawla and Greta Fernandes. Testatrix had no other sister and no brother. Consent Affidavit of Abcia Chawla dated 28.04.2024 is on record. She has given her consent in the form of Affidavit, which is 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 her share in the estate of the testatrix. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para No. 10 of the petition.

6. Citation was personally served through office of Sheriff, Mumbai to Greta Fernandes – sister of the testatrix on 04.10.2024. Joint Affidavit of Service filed by Rajiv R. Yadav, Bailiff and Clerk of Office of Sheriff, Mumbai and Naresh Singh Chawla dated 14.10.2024 is on record. As per Bailiff's report, he had served the citation alongwith true copy of the petition to Greta Fernandes on 04.10.2024 at about 10.50 a.m. She accepted the service of citation by putting her signature on the original citation. Ld. Advocate for petitioner submits that citation has been duly served to Greta Fernandes on 04.10.2024 through Sheriff's office as per Rule 399 of the Bombay High Court (Original Side) Rules, 1980. However, she did not resist the petition till date. Hence, this petition is proceeded as uncontested petition.

7. 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 09.08.2024. Notice to collector has been sent.

8. The petitioner has filed the Affidavit and Additional Affidavit of Krishnarao Tapase dated 28.04.2024 and 14.10.2024, 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 another3

35 TP/3439/2024

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. Will is duly registered before Joint Sub-Registrar, Andheri No. 1, under registration No BDR-1/III/13815/2012. 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.

9. 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. 7 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule – I, hereto annexed and marked as Exhibit – “E” all the properties and credits which the deceased was possessed of or entitled to at the time of her death, which have or are likely to come to the Petitioners hands as sole beneficiary / Nephew”.

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.

10. Petitioner has executed the administration Bond dated 13.08.2024 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.

