

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 18th October, 2024**

CALLED FOR COMPLIANCE :

48 TP/3524/2024) Mr. S. U. Lakdwala, Advocate for petitioner

)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Yogesh
) Nandlal Adalja and Dakshaben Yogesh Adalja (herein
) after the same is referred to as “Testator and Testatrix”),
) for grant of Letters of Administration with Will
) annexed.

) Testator said to have died on 12.03.2016 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).

) Testatrix said to have died on 30.12.2023 at
) Mumbai. Petitioner filed the copy of death certificate
) (which is annexed to petition as Exhibit- B), identity
) proof of the testatrix (which is annexed to petition as
) Exhibit- B1).

) Petitioner has also filed copy of Joint Will,
) petitioners oath and Affidavit of Legal heirs of Testator
) and Testatrix.

) 2. The petitioner has explained the delay in para
) No.12 of the petition as per Rule 382 of the Bombay
) High Court (Original Side) Rule, 1980 (for short
) “Rules”).

) 3. The ‘testator and Testatrix’ have not appointed
) Executor to execute the Will. The petitioner is being
) one of the legatees named under the Joint Will. Hence,
) petition is tenable.

) 4. Petitioner stated that the testator and testatrix left
) behind their last Joint Will and Testament which was
) duly executed at Mumbai on 21.08.2012, in English
) language.

5. Petitioner states that parents of both the 'testator and testatrix' were predeceased to them and they were survived by legal heirs shown in the paragraph No.9 of the petition, as per the provisions of the Hindu Succession Act, 1956. 'Testator and Testatrix' were husband and wife. They died leaving behind only son namely Sanjay Yogesh Adalja – petitioner herein and only daughter namely Sangita Jiten Shah. Consent Affidavit of Sangita Jiten Shah dated 11.05.2024 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 'testator and testatrix'. She has waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the 'testator and testatrix' other than mentioned in para No. 9 of the petition.

7. The petitioner has filed the Affidavit of Kishore Shamji Thakkar dated 28.05.2024, 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 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, 1980.3

8. As per Joint Will, testator and testatrix had bequeathed their one of the property to their grandson namely Binoy Sanjay Adalja alongwith Sanjay Yogesh Adalja – petitioner herein and Sangeeta Jiten Shah – daughter. The said Binoy Sanjay Adalja has given his consent Affidavit dated 28.05.2024, which is on record. He has given his 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 his share in the estate of the testator and testatrix. He has waived the service of Citation.

“That the Petitioner has truly set forth in Schedule No.I, hereto annexed marked Exhibit “D”, all the property and credits which both the deceased died possessed of or entitled to at the time of their respective death, which have or are likely to come to her hands. Rest all properties if any, referred in the Will but not claimed in the Schedule as they have been disposed of after execution of Will and did not exist at the time of filing of petition. So far as the Petitioner have been able to ascertain or is aware, there are no property and credits other than what are specified in the Schedule attached to the Petition”.

10. Petitioner has executed the Administration Bond dated 03.09.2024 in the prescribed format. Hence, following order:

1) Petition is granted.

3) Before issuance of above said Letters of Administration with Joint Will, the office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

FIRST ASSISTANT MASTER