

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 26th September, 2024

CALLED FOR COMPLIANCE :

45 TP/3528/2024) Ms. Mansi Hirve a/w. Arjun Divekar i/b. Divekar and
) Co., Advocate for petitioner
)
) -
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) beneficiaries named under the Will executed by
) Dr. Sudhir Anant Joshi (herein after the same is referred
) to as “Testator”), for grant of Letters of Administration
) with Will annexed. Testator said to have died on
) 13.09.2023 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, petitioner's
) oath, affidavits of legal heirs of the testator.
)
) 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 one of the beneficiaries
) 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 22.07.2015, in English 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.
)
) 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.
) Mother of deceased namely Sushila Anant Joshi died on
) 13.11.2013. Father of deceased namely Anant Joshi
) died on 26.03.1977.
)

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Testator died leaving behind his wife Jayashree Sudhir Joshi, Sonali Gautam Nimkar – daughter and only son namely Sameer Sudhir Joshi – petitioner herein. Consent Affidavit of Jayashree Sudhir Joshi and Sonali Gautam Nimkar dated 30.03.2024 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 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 20.08.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Prakash H. Risbud dated 30.03.2024, 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 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 :3

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) “That the Petitioner have truly set forth in
) Schedule – 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 likely to
) come to his 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. Ld. Advocate for petitioner submits that lockers
) shown at Sr. Nos. 53 and 54 of Schedule I of the
) petition are in the joint name of petitioner with
) Jayashree Sudhir Joshi and also testator. Hence, there is
) no required to carry out inventory of the said locker.

) 10. Petitioner has executed the Administration Bond
) dated 20.08.2024, 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.

26.09.2024

FIRST ASSISTANT MASTER