

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 6th September, 2024**

CALLED FOR COMPLIANCE :

2 TP/3539/2024) Ms. Deepa Hate i/b. Gajria & co., Advocate for
) petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This De-Bonis-Non petition is filed by Harshad
) Mafatlal Shah, being the Constituted Attorney of Nakul
) Harshad Shah, beneficiary named under the Will. Will
) was executed by Bhagwati Mafatlal Shah (herein after
) the same is referred to as “Testatrix”), for grant of
) Letters of Administration with Will annexed. Testatrix
) said to have died on 12th January, 2004 at Mumbai.
) Petitioner filed the copy of death certificate (which is
) annexed to petition as Exhibit-A), copy of Probate dated
) 31st October, 2023 (which is annexed to the petition as
) Exhibit - “B”), petitioner's oath, Affidavits of legal heirs
) of the testatrix.
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) 2. The petitioner has filed the present petition within
) prescribed limit as per Rule 382 of the Bombay High
) Court (Original Side) Rule, 1980 (for short “Rules”).
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) 3. The testatrix had left a Will dated 10th October,
) 2000 in which she had appointed Mafatlal Keshavlal
) Shah, Bhavesh Kumarpal Shah and Nirav Anant Dalal
) as Executors of her Will. One of the Executor namely
) Mafatlal Keshavlal Shah had undertaken to administer
) the Will. Others Executors namely Bhavesh Kumarpal
) Shah and Nirav Anant Dalal had renounced their rights
) as Executors. This Hon’ble Court had granted Probate
) to said Mafatlal Keshavlal Shah, one of the Executor on
) 31st October, 2013. Copy of probate was annexed to
) petition as EX-B.
)

) Said Mafatlal Keshavlal Shah had not administered
) the property which was mentioned in the Schedule I of
) the petition, which is annexed to the petition as Exhibit
) – “D”. He died on 2nd March, 2020 without
) administration of the said property of the testatrix.
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Copy of death certificate of Mafatlal Keshavlal Shah is annexed to the petition as Exhibit – “C”.

Hence, sole beneficiary under the Will namely Nakul Harshad Shah has filed this petition through his Constituted Attorney namely Harshad Mafatlal Shah. Power of Attorney dated 22nd July, 2009 is annexed to the petition in favour of Constituted Attorney. Hence, petition filed by Nakul Harshad Shah through his Constituted Attorney namely Harsahd Mafatlal Shah is tenable.

4. Petitioner stated that the testatrix left behind her last Will and Testament which was duly executed at Mumbai on 10th October, 2000, in English language. Ld. Advocate for petitioner submits that the original Will is handed in separately in Testamentary Petition No. 591 of 2013, 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 husband of testatrix namely Mafatlal Keshavlal Shah was predeceased to her and testatrix was survived by legal heirs shown in the paragraph No.8 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testatrix died leaving behind two sons and two daughters. Testatrix's two sons are namely Vipul Mafatlal Shah and Harshad Mafatlal Shah. Testatrix's two daughters are namely Ragini Kumarpal Shah and Varsha Anant Dalal, one of the daughter of testatrix namely Varsha Anant Dalal died on 7th August, 2009. She died leaving behind her husband namely Anant Dhirajlal Dalal, two sons namely Neerav Anant Dalal and Pratik Anant Dalal.

Consent Affidavits of Vipul Mafatlal Shah dated 14th August, 2023, Harshad Mafatlal Shah dated 12th August, 2023, Ragini Kumarpal Shah dated 12th August, 2023, Anant Dhirajlal Dalal dated 9th September, 2023, Neerav Anant Dalal dated 25th September, 2023 and Pratik Anant Dalal dated 16th September, 2023 are on record. They have have given their consents in the form of Affidavits, which are filed on the record by the petitioner and

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“That the Petitioner has truly set forth in the Schedule of Assets the un-Administered property and credits of the said deceased which the said deceased died possessed of or was entitled to at the time of her death, being un-administered estate left by Mafatlal Keshavlal Shah which have to come to the hands of the petitioner. Hereto annexed and marked “Exhibit – D” is a copy of the Schedule of Asset of the deceased”.

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Hence, properties mentioned in the Schedule - I of the petition is yet to be administered.

10. Ld. Advocate for the petitioner submitted that Will is already proved. Further, petitioner has filed Administrator oath through Constituted Attorney. He stated on oath that he will faithfully administer the property and credits of the testatrix. Also, make and exhibit a full true inventory of the said property and credits in this Hon'ble Court within six months for the date of grant.

11. Petitioner has executed the Administration Bond dated 23rd October, 2024, in the prescribed format. Hence, following order:

ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with Will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioner till original petitioner come and apply, 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.

06.09.2024

FIRST ASSISTANT MASTER