

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

CALLED FOR COMPLIANCE :

36 TP/3772/2024) Mr. Mahadeo R. Sherekar, Advocate for petitioner
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being sole legatee
) named under the Will executed by Hansaben Parekh
) (herein after the same is referred to as “Testatrix”), for
) grant of Letters of Administration with Will annexed.
) Testatrix said to have died on 11.07.2020 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.
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) 2. The petitioner has explained the delay in para
) No.10 of the petition as per Rule 382 of the Bombay
) High Court (Original Side) Rule, 1980 (for short
) “Rules”).
)
) 4. The testatrix has not appointed Executor to execute
) the Will. The petitioner is being sole legatee named
) under the Will. Hence, petition is tenable.
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) 5. Petitioner stated that the testatrix left behind her
) last Will and Testament which was duly executed at
) Mumbai on 07.06.2014, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1481 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.
)
) 6. Petitioner states that husband of testatrix were
) 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.
) Husband of testatrix namely Ramniklal Parekh was
) predeceased to her. Parents of husband of testatrix also
) predeceased to her. Testatrix died leaving behind only
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her married daughter and had no son.

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Testatrix's only daughter Heena Hemant Chotai. Consent Affidavit of Heena Hemant Chotai dated 06.05.2024 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 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. 8 of the 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 22.08.2024. Notice to collector has been sent.

8. The petitioner has filed the Affidavit Piyush Amrutlal Shah dated 27.07.2024, 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 another witness. According to his, 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 deposed that Will was read over and interpreted, explained in Gujarati language to the testatrix and accordingly testatrix being agreed to the contents of the Will, she had put her thumb impression and signature in vernacular language. Hence, there is sufficient compliance of Rule 419 of the Bombay High Court (Original Side) Rules, 1980. Will is duly registered before Joint Sub-Registrar Andheri – 3, under registration No. BDR-9/III/4309/2014. Attesting Witness further deposed that at the time of execution of the Will, testatrix was of sound and disposing mind,

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memory and understanding.

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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 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 :

“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 her death, which have or are likely to come to the petitioner’s hands. So far as the Petitioner has 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”.

The Ld. Advocate for the petitioner submitted that properties available to the testatrix at the time of her death are mentioned in the Schedule - of the petition.

10. Testatrix has bequeathed the only property mentioned in Schedule - I of the petition to her grandson namely Devang Hemant Chotai – petitioner herein. Testatrix’s only daughter namely Heena Hemant Chotai has filed her Consent Affidavit in favour of the petitioner. Hence, this petition is proceeded as uncontested petition.

11. Petitioner has executed the Administration Bond dated 09.09.2024 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

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administration Bond is properly executed, as per the Rules.4

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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