

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 13th November, 2024**

CALLED FOR COMPLIANCE :

57 TP/3873/2024) Mr. B. G. Saraf a/w. Suyash Kalbhor, Advocate for
) petitioner

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) **P.C.:**

) 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner namely Ashok
) Sadashiv Panshikar being sole beneficiary named under
) the Will executed by Madhusudan Sadashiv Panshikar
) (herein after the same is referred to as “Testator”), for
) grant of Letters of Administration with Will annexed.
) Testator said to have died on 15.09.2020 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.

) 2. Ld. Advocate for petitioner submits that petition is
) filed within limitation as per orders passed by the
) Hon’ble Supreme Court during Corona Pandemic.

) 3. The testator has appointed Executor namely
) Yeshwant Keshav Lele under the Will. Said Executor
) died on 26.09.2023 and his death certificate annexed to
) the petition as Exhibit – “C”. The petitioner is being
) sole beneficiary 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 07.12.2019 in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1530 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 testator were
) predeceased to him and testator was survived by legal
) heirs shown in the paragraph No. 9 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died as bachelor.2

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38 TP/3873/2024) Testator had two brothers and three sisters. Ld.
) Advocate for petitioner submits that testator's one
) brother and three sisters predeceased the testator and
) therefore, their heirs are not entitled to serve the citation
) as per section 8 and as per Schedule of the Hindu
) Succession Act, 1956. Testator died leaving behind only
) brother namely Ashok Sadashiv Panshikar – petitioner
) herein. The petitioner affirmed that there are no other
) legal heirs of the testator other than mentioned in para
) No. 9 of the petition.
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) 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 21.08.2024. Notice to
) collector has been sent.
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) 7. The petitioner has filed the Affidavit of Mangesh S.
) Raykar dated 09.02.2024, 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. Will is duly registered
) before Joint Sub-Registrar, Mumbai City No. 3, under
) registration No. BBE/3/III/11207/2019. 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.
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) 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 :
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“That the Petitioner has truly set forth in Schedule No. I, hereto annexed and marked as Exhibit – “E” all the property and credits which the deceased died possessed of or entitled to at the time of his death which have or are likely to come to Petitioner’s 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 testator has bequeathed his properties mentioned in Schedule I of the petition to his brother namely Ashok Panishikar – Petitioner herein.

As per the Will, Ravindra Muley and Madhav Joshi are conditional beneficiaries as per clauses 6 of the Will which reads as under :

“6. UNFORTUNATE DEATH OF MR. ASHOK SADASHIV PANSHIKAR :

6.1. In the unfortunate event of death of my Brother Mr. Ashok Sadashiv Panshikar before me or alongwith me, all the bequeath favouring my Brother Mr. Ashok Sadashiv Panshikar shall be devolved upon my relative Mr. Ravindra Gajanand Mulay”.

10. Petitioner has executed the Administration Bond dated 10.10.2024 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.

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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.

13.11.2024**FIRST ASSISTANT MASTER**