

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 17th October, 2024**

CALLED FOR COMPLIANCE :

2 TP/3907/2024) Ms. Seema Hunnurkar, Advocate for petitioner
)
) **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 Lipika Priyanath
) Banerjee (herein after the same is referred to as
) “Testatrix”), for grant of Letters of Administration with
) Will annexed. Testatrix said to have died on 19.09.2022
) 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.
)
) 2. Ld. Advocate for petitioner submits that testatrix
) during her lifetime as changed her name from Uma to
) Lipika, the same has been changed vide Government
) Official Gazette and same has been annexed to the
) petition as Exhibit – “E”.
)
) 3. The petitioner has filed petition within prescribed
) limit as per Rule 382 of the Bombay High Court
) (Original Side) Rule, 1980 (for short “Rules”).
)
) 4. The testatrix has appointed as sole Executor under
) her Will namely S. R. Sinha. The said Executor has filed
) his Affidavit dated 04.07.2024 and renounced / waived
) and / or abandon all his rights, title and interest to apply
) for Probate. Hence, the petitioner being the sole legatee
) named under the Will, is entitled to file the present
) petition.
)
) 5. Petitioner stated that the testatrix left behind her last
) Will and Testament which was duly executed at Mumbai
) on 30.10.2000, in English language. Ld. Advocate for
) petitioner submits that the original Will No. 1546 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.2
)

CONTD....

– 2 –

2 TP/3907/2024

6. Petitioner states that parents of testatrix were predeceased to her and testatrix was survived by legal heirs shown in the paragraph No.9 of the petition, as per the provisions of the Hindu Succession Act, 1956. Testatrix died as spinster. Testatrix had one sister namely Gauri Sarang Puri and had no brother. She died on 01.10.2001 and her death certificate has been annexed to petition as Exhibit “D”. She died leaving behind her only son namely Shilvib Mangal Puri – petitioner herein and had no daughter. Husband of said Gauri Puri namely Sarang Vinod Puri predeceased the testatrix. Ld. Advocate for petitioner submits that petitioner’s name has been changed from ‘Vedant Sarang Puri’ to ‘Shilvib Mangal Puri’ as per Government Gazette dated 15.04.1999 published in Government Gazette of State of Maharashtra. Copy of the said Gazette is annexed to the Affidavit dated 16.10.2024 as Exhibit – “B” in support of the same. He has annexed his Aadhaar Card having new name Shilvib Mangal Puri as Exhibit – “A” to the said Affidavit and pancard showing his name as Exhibit – “C”. He further stated that change of name is legally valid and same has been duly notified in Government Gazette. The petitioner affirmed that there are no other legal heirs of the testatrix other than mentioned in para No. 9 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 23.08.2024. Notice to collector has been sent.

8. The petitioner has filed the Affidavit of S. R. Sinha dated 04.07.2024, 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 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)3

CONTD.....

– 3 –

2 TP/3907/2024

) Rules, 1980. Will is duly registered before Joint Sub-
) Registrar, Borivali, under registration No.
) BDR-2/III/4685/2000. Attesting witness further deposed
) that at the time of execution of the Will, testatrix was of
) sound and disposing mind, memory and understanding.

) Ld. Advocate for petitioner submits that Attesting
) Witness had filed his Affidavit of renunciation as well as
) Affidavit of Attesting Witness on 04.07.2024. In the
) Affidavit of Attesting Witness, he stated on oath that he
) was present at the time of execution of the Will. Ld.
) Advocate for petitioner submits that there is no bar for
) filing of Affidavit of Attesting Witness because he had
) renounced his rights as Executor. Statement made by Ld.
) Advocate is accepted. Also, this petition is uncontested
) petition. 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. 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 as Exhibit – “C”,
) all the property 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”.

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

) 9. Ld. Advocate for petitioner submits that some of the
) properties are mentioned in the Will but not shown in
) the Schedule I of the petition as reason mentioned in
) para No. 7 of the petition. Relevant para No. 7 of the
) petition reads as under :

) “The Petitioner state that the petitioner was very
) well acquainted with the deceased during his
) lifetime and according to knowledge4

2 TP/3907/2024

of the petitioner is aware that the deceased during his lifetime has disposed off and / or realized the accounts of the assets / properties mentioned in the said last Will, save and except the assets mentioned in Schedule – I of present petition. The petitioner states that under the aforesaid circumstances, the petitioner has not shown the said assets in Schedule-I of petition”.

9. Petitioner has executed the Administration Bond dated 13.08.2024, 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.

17.10.2024

FIRST ASSISTANT MASTER