

**BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 22nd October, 2024**

CALLED FOR COMPLIANCE :

57 TP/4009/2024) Mr. Suyash Kalbhor, Advocate for petitioner
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being legal
) representative of the beneficiary named under the Will
) executed by Babulal Gagjivanram Sharma (herein after
) the same is referred to as “Testator”), for grant of
) Letters of Administration with Will annexed. Testator
) said to have died on 01.12.2000 at Mumbai. Petitioner
) filed the copy of death certificate (which is annexed to
) petition as Exhibit- A), Will, petitioner's oath. Petitioner
) has filed Affidavit dated 19.10.2024 along with
) document viz. Extract of election list issued by Brihan
) Mumbai Municipal Corporation dated 26.02.2021 to
) dispense with a requisition to produce an identity of the
) testator.
)
) 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”).
)
) 3. The testator namely Babulal G. Sharma died as
) bachelor and had no legal heirs. Testator has executed
) the Will dated 24.09.1985 and bequeathed his property
) to his Caretaker and Executor namely Sakharam Gundu
) Patil.
)
) Said Sakharam Patil has applied for Probate for the
) last Will and testament of testator vide Testamentary
) Petition No. 1744 of 2021. This Hon’ble Court had
) issued grant in favour of Sakharam Patil on 05.07.2022
) and copy of Probate has been annexed to the petition as
) Exhibit – “C”. After obtaining the Probate, said
) Sakharam Gundu Patil died on 14.03.2024 without
) administering properties mentioned in Schedule I of the
) petition.

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)
) Copy of his death certificate is annexed to the petition
) as Exhibit – “D”.
)

) Petitioner herein being legal representative of
) beneficiary / executor 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 14.09.1985, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 688 of 2021 was handed in Testamentary Petition
) No.1744 of 2021 which was separately 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. 5 of the petition, as
) per the provisions of the Hindu Succession Act, 1956.
) Testator died as bachelor. Testator had no brother and
) sister.
)

) Ld. Advocate for petitioner submits that this petition
) is filed as De-Bonis-Non petition as there are no legal
) heirs of deceased to the knowledge of petitioner. Hence,
) petitioner has filed Affidavit of publication dated
) 22.03.2022 as per order dated 22.02.2022 and no
) objection has been came forward. All the necessary
) steps to serve the legal heirs of testator has already been
) completed in Testamentary Petition No. 1744 of 2021,
) which was filed by the said Sakharam Gundu Patil and
) Probate has been granted by this Hon’ble Court in
) favour of Sakharam G. Patil on 05.07.2022. He died on
) 14.03.2021 without administering the property under
) the Will. Hence, only legal heir of Sakharam Patil
) namely Anvita Amit Suryawanshi has filed this petition.
) Ld. Advocate for petitioner has carried out amendment
) on 19.10.2024. Petitioner stated on oath that mother of
) petitioner namely Sunanda Sakharam Patil died on
) 14.12.2014 and only brother of petitioner3

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)
) namely Rajkumar Sakharam Patil died on 03.01.2020 as
) bachelor.

) Hence, petitioner herein is only legal heir of the
) Executor / beneficiary namely Sakharam Gundu Patil.
) The petitioner stated on oath that there are no other
) legal heirs of the Testator other than mentioned in para
) No. 5 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 26.09.2024. Notice to
) collector has been sent.
)

) 7. Properties mentioned in the schedule-I of the
) petition are referred in the Will. Petitioner has annexed
) and marked as Exhibit – "D" is the Schedule of un-
) administered properties of the testator.
)

) 8. As per requisition No. 1 raised in the order dated
) 14.10.2024, which reads as "To explain legal heirs of
) deceased as per the provisions of Rule 397 of the
) Bombay High Court (Original Side) Rules, 1980".
)

) Ld. Advocate for petitioner submits that he has
) carried out amendment on 19.10.2024 to explain the
) legal heirs of deceased. He further submits that testator
) namely Babulal G. Sharma died as bachelor and as per
) Will, he has bequeathed his only property in Schedule I
) of the petition to Sakharam Gundu Patil. Said Sakharam
) Gundu Patil had filed Testamentary Petition No. 1744
) of 2021 and obtained Probate on 05.02.2022. He died
) without administering the property. Hence, petitioner
) herein namely Anvita Amit Suryawanshi has filed this
) petition as sole surviving legal heir of the original
) petitioner.
)

) 9. As per requisition No. 1 raised in the order dated
) 14.10.2024, which reads as "To provide identification
) proof of deceased as well as Sakharam Gundu Patil".
)

- 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.

FIRST ASSISTANT MASTER