

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 9th October, 2024

CALLED FOR COMPLIANCE :

22 TP/4018/2024) Ms. Harshada Disale , Advocate for petitioner

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1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is filed by petitioner, being Sole legatee named under the Will executed by Vijaykumar Ganpat Pachanekar (herein after the same is referred to as “Testator”), for grant of Letters of Administration with Will annexed. Testator said to have died on 2nd November, 2023 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-A-1), Will, petitioner's oath, Affidavits of legal heirs of the testator.
2. The petitioner has filed petition within prescribed limit as per Rule 382 of the Bombay High Court (Original Side) Rule, 1980 (for short “Rules”).
3. The testator has not appointed Executor to execute the Will. The petitioner is being sole legatee 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 10th November, 2020, in Marathi language. Ld. Advocate for the petitioner has filed her Affidavit dated 26th August, 2024. She deposed that she had knowledge of both the languages Marathi as well as English. Hence, translation annexed to the petition is true and correct. This is in compliance with the order dated 10.01.2024 passed by the Hon’ble Court in Testamentary Petition No. 1263 of 2023. The original Will No. 1587 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

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heirs shown in the paragraph No.8 of the petition,2

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as per the provisions of the Hindu Succession Act, 1956. Testator died leaving behind his wife namely Vasanti Vijaykumar Pachanekar, only son namely Pratik Vijaykumar Pachanekar and only married daughter namely Megha Mahesh Dabhilkar – petitioner herein. Consent Affidavits of Vasanti Pachanekar and Pratik Vijaykumar Pachanekar both dated 2nd May, 2024 are on record. Ld. Advocate for the petitioner submits that she had explained and interpreted consent Affidavit to Vasanti Pachanekar. Other legal heir namely Pratik Pachanekar known English language and had signed his consent Affidavit in English language. Statements made by Ld. Advocate for petitioner are accepted. They have given their consents in the form of Affidavits, which are 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 their shares in the estate of the testator. They have waived the service of Citation. The petitioner affirmed that there are no other legal heirs of the testator other than mentioned in para No. 8 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 5th September, 2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Nilesh Nathuram Vinerkar dated 2nd May, 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. Attesting Witness further deposed that at the time of execution of

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the Will, testator was of sound and

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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.

8. Properties mentioned in the schedule of the petition are referred in the Will. Ld. Advocate for the petitioner submits that as mentioned in the para no. 6 of the petition, which reads as under :

“That the Petitioner has truly set forth in Schedule I hereto annexed and marked Exhibit – “C” 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 his hands. So far as the Petitioner has been able to ascertain or is aware, there are no properties and credits of the deceased other than what are specified in the schedule attached to this petition”.

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 the petitioner undertakes to upload the corrected petition by duly filled up age of Vasanti Vijaykumar Pachanekar in petition.

10. Petitioner has executed the Administration Bond dated 24th September, 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.

09.10.2024

FIRST ASSISTANT MASTER