

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 4th October, 2024

CALLED FOR COMPLIANCE :

55 TP/4039/2024) Mr. Someshwar Pawale i/b. P S Chambers, Advocate for
) petitioner
)
)
) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by petitioner, being one of the
) legatees named under the Will executed by Jaspal Singh
) Teksingh Matharu (herein after the same is referred to
) as “Testator”), for grant of Letters of Administration
) with Will annexed. Testator said to have died on
) 04.04.2021 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, Affidavits of legal heirs 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 has not appointed Executor to execute
) the Will. The petitioner is being one of the legatees
) 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 15.01.2024, in English language. Ld.
) Advocate for petitioner submits that the original Will
) No. 1599 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. 4 of the petition, as
) per the provisions of the Hindu Succession Act, 1956
) applicable to Hindu. Wife of the testator namely
) Kawaljeet Jaspal Matharu died on 30.05.2023 and her
) death certificate is annexed to the petition as2

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Exhibit – “B”.

Testator died leaving behind two sons and one married daughter. Testator’s two sons are namely Jagjit Singh Matharu – petitioner herein, Manmeet Singh Matharu and only daughter namely Sapna Rajesh Malviya. Consent Affidavits of Sapna Rajesh Malviya dated 21.03.2024 and Manmeet Singh Matharu dated 02.04.2024 are on record. 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. Ld. Advocate for petitioner submits that he has already uploaded Consent Affidavit of Manmeet Singh Matharu dated 02.04.2024, but the same is not showing on the official portal. Hence, he undertakes to re-upload the same during the course of the day. The said undertaking is accepted. The petitioner affirmed that there are no other legal heirs of the testator other than mentioned in para No. 4 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 10.09.2024. Notice to collector has been sent.

7. The petitioner has filed the Affidavit of Stella Hilda Noronha dated 21.03.2024, 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 she was present and testator signed on the Testament papers in presence of her and another witness. According to her, 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,

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Andheri No. 6 under registration No. BDR-17/III/358/2014. 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.

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. 5 of the petition, which reads as under :

“That the Petitioners has truly set forth in Schedule No.I hereto annexed and marked Exhibit – “D” all the properties and credits which the deceased died possessed of or entitled to in India at the time of his death which have or are likely to come to the Petitioner’s hand”.

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 as per Will, testator has bequeathed the property mentioned in Schedule I of the petition to his wife namely Kawal Matharu for her use and benefit absolutely and forever during her lifetime. After her demise the said property directed to sold at the prevailing market value and the sale consideration should be distributed as per the Will.

Ld. Advocate for petitioner submits that this petition is uncontested petition. Petitioner has filed his Administrator’s oath and stated that he will faithfully administer the property of the testator as per the Will. Hence, Letters of Administration with Will should be granted in favour of petitioner.

10. Petitioner has executed the Administration Bond dated 23.08.2024, in the prescribed format. Hence, following order:

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ORDER

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