

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 101 OF 2017**

Joseph Xavier D'Souza ...Deceased

Cynthia Rosaline Rodrigues ...Petitioner

**Mr Omkar Khanvilkar, with Chirag Desai, i/b M/s Solicis Lex, for
the Petitioner.**

CORAM: G.S. PATEL, J

DATED: 2nd May 2018

PC:-

1. Pursuant to the previous order dated 27th March 2018 there is an Additional Affidavit dated 2nd May 2018 filed by the Petitioner. In this she explains that her mother, the only other heir changed her residential address due to ill health. It is on account of that change in address that the Bailiff could not serve the proclamation on the Petitioner's mother, who is 89 years old and has several health-related issues.

2. The deceased was survived by the Petitioner and her mother. In paragraph 3 the Petitioner's says that since she has a family to look after with four children, she shifted her mother to the adjacent flat. That flat also belongs to the Petitioner. All that this meant was

that the physical address of the Petitioner's mother Elizabeth could not be ascertained till date.

3. Annexed to this Affidavit are copies of Elizabeth's medical reports, prescriptions, PAN Card, Aadhar Card and Election Card. Having regard to these circumstances, I am satisfied that the Petition deserves to be allowed. The Petitioner and her mother are the only heirs of the deceased Joseph Xavier D'Souza who died at Mumbai on 26th September 2008. He left no Will or other testamentary writing.

4. During his lifetime the deceased lived at Lizwadi, opposite Municipal Dispensary, Gorai Village Road, Gorai, Borivali (West), Mumbai-400 094. The deceased owned immovable property at Gorai and the heirship certificate is required to apply for transfer of the properties and applications to the Tahasildar's office. In view of this the Petition is made absolute in terms of prayer clause (a), in the names of Mrs Elizabeth D'Souza and Mrs Cynthia Rosaline Rodrigues nee D'Souza.

(G. S. PATEL, J)