

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 26th August'2024.**

Sr. No. 1 – TP 1137 of 2024

Ms. Maya Gopal, Advocate for the petitioner.

Karen Kavita Fernandes petitioner no. 2a present

Berlyn Brazline Fernandes petitioner no. 2b present.

Pursuant to the direction issued on 05.08.2024, today the petitioner 2a and 2b are present who are brought on record as per order dated 29.01.2024 and they are permitted to sign the petition. Advocate for the petitioner is allowed to carry out amendment into the petition and both the petitioners are present before me today.

Advocate for the petitioner submits that there are certain corrections which are required to be carried out in para no. 5 of the petition where the heirs of the deceased no. 1 and 2 are mentioned and specified. She will carry out the said corrections in para no. 5 of the petition within two days from today. The said request is accepted. Advocate for the petitioner is permitted to carry out the correction in para no. 5. Reverification is dispensed with.

1. Perused the Petition. Heard Advocate for petitioner. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain **Securities** belonging to the deceased no. (1) viz. Louis Fernandes who died at Mumbai on 06.10.1997. Copy of death certificate is annexed at Exhibit -'A' to the petition. And

deceased no. (2) viz. Brazline Louis Fernandes who died at Mumbai on 23.10.2014. Copy of death certificate is annexed at Exhibit -'B' to the petition.

Advocate for petitioner submits that since identification proof of the deceased no. 1 and 2 is not available petitioner had filed Affidavit dated 23.02.2024 for dispensation of identification proof of the deceased no. 1 and 2. After perusal of the same it is found that the petitioner has mentioned that they had taken search, but the said identification proof of the deceased no. 1 and 2 is not available with them. Hence, the petitioner request that they may be permitted to file the present petition without the identification proof of the deceased no. 1 and 2. The said request is accepted. Copy of Affidavit for dispensation of identification proof of the deceased no. 1 and 2 is annexed separately to the petition.

2. Advocate for petitioner submits that the said deceased no. (1) ordinarily resided at C-5, Krishnalaya Bldg, M. S. Manikar Marg, Sion Chunnabhati, Mumbai – 400 022 and left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

Advocate for petitioner submits that the said deceased no. (2) ordinarily resided at P-1 Bldg, Flat No. 14, Kakade Park, Opp. Podar International School, Chinchwad Pune - 411033 and left property within Greater Bombay and in the State of Maharashtra and elsewhere in India.

3. Advocate for petitioner submits that both the said deceased died intestate and that due and diligent search has been made for the Will but none has been found.

4. Advocate for petitioner submits that the legal heirs left behind by both the deceased surviving as **their** only heirs next-of-kin according to **Indian Succession Act, 1925** are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the parents of the deceased no. 1 and deceased no. 2 predeceased the deceased.

Advocate for the petitioner submits that the first wife of deceased no. 1 viz. Philomina F. predeceased on 01.06.1973. Thereafter the deceased no. 1 remarried to Brazline Louis Fernandes (deceased no. 2) on 19.10.1977.

Advocate for the petitioner submits that the first husband of deceased no. 2 viz. Cajeteen Fernandes predeceased on 13.02.1973. Thereafter Deceased no.2 remarried on 19.10.1977 to Louis Fernandes (deceased no.1).

Advocate for petitioner submits that both the deceased left behind them sons and married daughter viz. (1) John Louis Fernandes (son of both the deceased/petitioner no. 1) (2) Longinus Louis Fernandes (son of both the deceased) died on 26.09.2023 leaving behind him (2a) Karen Kavita Fernandes (daughter in law of both the deceased/wife of

deceased son/petitioner no. 2a), (2b) Berlyn Brazline Fernandes (grand daughter of both the deceased/daughter of deceased son/petitioner no. 2b). (3) Reggie Fernandes (son of both the deceased/petitioner no. 3) through constituted Attorney Marina D'souza, (4) Nicholas Fernandes (son of both the deceased/petitioner no. 4), (5) Jack Fernandes (son of both the deceased/petitioner no. 5) , (6) Marina D'souza (married daughter of both the deceased/petitioner no. 6), (7) Savio Fernandes (son of both the deceased/petitioner no. 7), (8) John Fernandes (son of both the deceased/petitioner no. 8), (9) Peter Fernandes (son of both the deceased/petitioner no. 9). Save and except there are no other legal heirs and next of kind left by the deceased, which is mentioned at para no. 4 of the petition.

6. Advocate for Petitioner submits that being the **son** of deceased claims to be entitled for **1/9th** share in the estate left by the deceased.

7. Advocate for petitioner submits that, there is no impediment under Section 370 of the Indian Succession Act, 1925 or under any other provision of this Act or any other enactment to the grant of the certificate of the validity thereof if it was granted.

8. Advocate for petitioner submits that no application has been made to any District Court or District Delegate or

to any High Court for probate of any Will of the said deceased or for letters of administration with or without the Will for annexed to their property and credits.

9. Advocate for petitioner submits that no application has been made to any District Court for Succession Certificate in respect of any debt or security belonging to the estate of the deceased.

10. Advocate for the petitioner submits that there is delay of filing this petition be condoned as the concerned authorities asked for legal representation to transfer the property in favour of the Legal heirs. In view thereof, delay is condoned.

11. Advocate for the petitioner submits that the General Notice was issued on **06.04.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **20.07.2024** for proving General Notice filed through e-filing and Administration Bond dated **27.04.2024** also filed through e-filing.

Advocate for the petitioner submits that “pursuant to the order dated 2.2.2024 passed by the Hon’ble Shri Justice Manish Pitale, in Testamentary Petition No. 2918 of 2023, direction was given to the Registry in case of all the surviving legal heirs of the deceased are petitioners before the Court and the right or interest of no other legal heir is

required to be protected, the department shall not insist on furnishing Administration Bond. Hence, Administration Bond is dispensed with”.

12. This petition is filed for grant of Succession Certificate in respect to the **securities** which was mentioned in Schedule-1 which is annexed to the petition. The petitioner has complied all the necessary compliance for grant of the Succession Certificate in favor of the petitioner. Hence, facts stated by petitioner, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

- 1) Petition is allowed and the Succession Certificate be granted to the petitioner for certain **securities** left by the deceased and shown in the schedule, in prescribed format.
- 2) Before issuance of the grant, the office to verify whether any cross Petition is pending or Affidavit resisting the petition is filed.

ksa/rvr

**COMPANY REGISTRAR/
TESTAMENTARY REGISTRAR**