

**Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 14th December 2024**

FOR COMPLIANCE:

33. TP/2372/2024 P. C. Shri. Vivek Sharma Ld. Advocate for the Petitioner

:

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Christopher Joseph D'cruz (For short "Said deceased"). The petitioner, namely BERNARD JAMES D'CRUZ, has filed documents.

2) I have heard Ld. Advocate. I perused the documents, such as true copy of the death certificate of the deceased, affidavit with document to dispense with requisition of identity proof of the deceased, oath in the prescribed format, affidavit of service citation. Ld. Advocate for the Petitioner appeared and he explained the contents of the para no. 4 that "society is not acting on the nomination filed and therefore, he has to approach this Hon'ble court for grant of Letters of Administration and therefore, prayed that the delay in filing of the petition be condoned.

3) Said deceased died as a Bachelor on 02-01-2017 at Mumbai leaving behind him legal heirs, shown in the paragraph No. 5 of the petition. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule-I of the petition. The delay has been explained vide Rule 382 of the Rules.

4) Citation was issued, which has been duly affixed on the conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court(O.S.) Rules, 1980(for short "BHC Rules") and an

affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is treated as uncontested one.

5) In view of order passed by the Hon'ble Court in TP Nos. 2556 & 2559 of 2022 dated 28.02.2023 and in TP/2918/2023, the petitioner being the sole heir of the deceased is exempted from furnishing the administrative bond.

6) Ld. Advocate for the petitioner submitted that in view of provisions of the Indian Succession Act, 1925, the petitioner, being brother of the deceased, is entitled to seek a Letters of Administration. 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 Letters of Administration be granted to the petitioner for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) The petitioner to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

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