

**Before : Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 22nd March, 2024**

FOR COMPLIANCE:

49. TP/234/2024 P. Shri. D. R. Mishra Ld. Advocate for the Petitioner
(ECHCBM021973 C. :
42023)

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 ALBERT D'SOUZA alias A. D'SOUZA alias ALBERT JOSEPH D'SOUZA (For short "Said deceased"). The petitioner, namely GILBERT FRANCIS D'SOUZA, has filed documents such as a true copy of the death certificate of the deceased, identity proof of the deceased, and oath in the prescribed format.

2) I have heard Ld. Advocate and peruse the petition along with the documents. Ld. Advocate for the Petitioner submitted that he has uploaded consent affidavit of Collin Dsouza having document no. EDHCBM02182562024, consent affidavit of Sunil Dsouza having document no. EDHCBM02182622024, affidavit of service online having document no. EDHCBM02182612024 and administration bond online having document no. EDHCBM02196172024.

3) Said deceased died on 27/05/2016 at Mumbai leaving behind him legal heirs, shown in paragraph No. 4 of the petition. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties are shown in the schedule. 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 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 the 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) Legal heirs of the deceased have consented by way of Affidavits to grant prayer of the petitioner to grant a Letters of Administration, without reserving any right. They have accepted the facts, regarding their relationship, inter-se

6) Petitioner has filed the administration Bond in prescribed form No. 118 with surety.

7) Ld. Advocate for the petitioner submitted that in view of provisions of Indian Succession Act, 1925, the petitioner, being Son of the deceased, is entitled to seek a Letters of Administration. Hence, facts stated by petitioner and heirs of the deceased, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, the 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 the prescribed format as per the provisions of the Indian Succession Act, 1925
- 2) Before issuance of the grant, the office to verify that there is no cross Petition pending or caveat resisting the petition is filed.
- 3) The petitioner is to file an account as undertaken in a Petitioner's Oath within the stipulated period. Office to verify that an Administration Bond is properly executed and uploaded.

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