

BEFORE : MR. DILIP S. GURAV,
FIRST ASSISTANT MASTER
Date: 10th September, 2024

CALLED FOR COMPLIANCE :

13 TP/1816/2024) Mr. Nilesh S. Ghadge i/b. B. Gopalkrishnan, Advocate
) for petitioner
)
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) **P.C.:** 1. Perused Petition. Heard Ld. Advocate for petitioner.
) This petition is filed by the petitioner namely Keith
) Albert Lasrado for Letters of Administration (with a
) copy of an authenticated copy) being Constituted
) Attorney of Mr. Norbert Lasrado, an Executor named
) under the Will executed by Mary Lasrado (herein after
) the same is referred to as “Testatrix”), for grant of
) Letters of Administration (with a copy of an
) authenticated copy) with Will annexed. Testatrix said to
) have died on 17th August, 2020 at Ontario, Canada.
) Petitioner filed the copy of death certificate (which is
) annexed to petition as Exhibit-A), identity proof of the
) testatrix (which is annexed to petition as Exhibit-A-1 to
) A-3), Original “Small Estate Certificate” dated 14th
) April, 2023 along with copy of Will, petitioner's oath.
)
) 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 testatrix had appointed her husband namely
) Norbert Lasrado as the Executor under the Will. Said
) Executor has already obtained a Probate i.e. the Small
) Estate Certificate of the Last Will and Testament from
) the Hon’ble Superior Court of Justice at Ontario. The
) said Executor Mr. Norbert Lasrado is a citizen of
) Canada and a person of Indian Origin. Also, he is
) holding a card an Overseas citizen of India (OCI) and
) Presently resides at Ontario, Canada.
)
) The Said Executor had appointed the petitioner
) namely Keith Albert Lasrado Shenoy on 15th June,
) 2022 as his Constituted Attorney with full power
) (relevant para nos. 9 and 12 of power of Attorney) and
) authority including filing the present petition on behalf
) of Executor to apply for and obtain a grant of Letters of
) Administration to the estate of the testatrix.2

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Ld. Advocate for the petitioner submits that General Power of Attorney dated 15th June, 2022 is annexed to the petition as Exhibit - 'E'. Hence, this petition is filed by Constituted Attorney of Executor appointed under probated Will is tenable.

4. Petitioner stated that the testatrix left behind her last Will and Testament which was duly executed at City of Mississauga, in the Province of Ontario on 7th August, 2019, in English language. Copy of Will is enclosed with "Small Estate Certificate" and which was annexed to the petition as Exhibit - 'B'. Ld. Advocate for the petitioner submits that the original Will was already handed before Hon'ble Superior Court of Justice at Ontario, Canada and Original "Small Estate Certificate" along with original death certificate of testatrix was 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. Ld. Advocate for the petitioner submits that Keith Albert Lasrado Shenoy, Constituted Attorney of Norbert Lasardo has filed Affidavit dated 10th September, 2024. He stated on oath in para Nos. 9 and 12 of the said Affidavit that Executor had followed process which was laid down under the the Canadian law for obtaining a "Small Estate Certificate". Relevant para Nos. 9 and 12 of Affidavit, which reads as under :

"9. That the process for obtaining a Small Estate Certificate under the Canadian Law is in short, as follows:

(a) Application to be filed under Form 74.1A – Application for Small Estate Certificate.

(b) A list of assets and liabilities : Detailed inventory of assets, showing estimated values and liabilities need to be disclosed.

(c) Original Will and copy of Death Certificate of the deceased need to be provided.

(d) Service of Notice needs to be done upon all the legal heirs and notify all interested parties

(f) If no objections are received within 30 days, the executor can then file for the grant of Small Estate Certificate.

Hence, as stated above on oath that all the process of obtaining consent and notifying legal heirs, beneficiaries and interested parties in the estate has been submitted before the Hon'ble Court at Ontario, Canada and therefore not need to filed again. Statement made by Ld. Advocate for the petitioner is accepted.

7. Ld. Advocate for the petitioner submits that Affidavit of Constituted Attorney of Norbert Lasardo dated 10th September, 2024 is on record. He further submits that the Will of the testatrix has already been proved. Therefore, it does not need to be proved again.

8. Properties mentioned in the Schedule-I of the petition are referred in the Will. Ld. Advocate for petitioner submits that as mentioned in para No. 5 of the petition and para Nos. 4, 13 of Affidavit dated 10th September, 2024, which reads as under :4

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“5. That the Petitioner has truly set forth in Schedule No. I, hereto annexed and marked Exhibit – “C”, all the property and credits lying within the jurisdiction of this Hon’ble Court, which the said deceased died possessed of or entitled to at the time of her death, which have or are likely to come to the Executor’s hands.

4. That the wife of Mr. Nobert Lasrado, namely Mrs. Mary Lasrado, died on 17.08.2020 left behind a Will dated 07.08.2019. During her lifetime, late Mrs. Mary Lasrado had invested in various listed and unlisted companies in India and was holding various shares and securities of various companies.

13. I state that the details of the estate left behind by the deceased, Mrs. Mary Lasrado, are provided in Schedule – I of the present Petition, as per the Small Estate Certificate dated 14.04.2023”.

Hence, Ld. Advocate for the petitioner submitted that properties available to the testatrix at the time of her death which was mentioned in Small Estate Certificate dated 14.04.2023 are mentioned in the Schedule-I of the petition.

9. Ld. Advocate for the petitioner submits that “Small Estate Certificate” is similar to probate and which was explained on oath by Constituted Attorney in para Nos. 10 and 11 of the Affidavit dated 10th September, 2024. Relevant para Nos. 10 and 11 of said Affidavit, which reads as under :

“10. I state that the Small Estate Certificate is similar to probate, as it authenticates the Will and grants the executor named therein the authority to act as the estate trustee to administer the deceased’s estate in accordance with their last Will and Testament. The term “Small Estate Certificate” is a specific nomenclature used under Canadian law for estates with a value of \$150,000 or less, and it serves a similar purpose as Probate under Indian Succession Act, 19255

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allowing the executor to manage the estate.

11. I further state that after completing the aforesaid process and in compliance with Canadian law, Mr. Nobert Lasrado has successfully proved the Will and was issued a Small Estate Certificate dated 14.04.2023, under the seal of the Superior Court of Justice, Ontario. The authenticated copy of the said Probate ie. the Small Estate Certificate has been already furnished and is taken on record by this Hon'ble Court. Therefore, the petitioner may be granted Letters of Administration in accordance with the provisions of Section 228 of the Indian Succession Act, 1925".

10. Ld. Advocate for the petitioner further submits that Constituted Attorney has undertaken on oath to indemnify for any claims arising out of the grant of Letters of Administration with Authenticate copy of the Will in para No. 14 of the Affidavit dated 10th September, 2024, which reads as follows :

"I reiterate that I am the lawful attorney of the executor, Mr. Nobert Lasrado, named in the last Will of the late Mrs. Mary Lasrado, and that I have filed the Administrative Bond dated 03.07.2024 before this Hon'ble Court to faithfully administer the property and credits of the said deceased. The same shall be binding on me, and I undertake to indemnify for any claims arising out of the grant of Letters of Administration in my favour".

Hence, Will is already proved before Hon'ble Superior Court of Justice at Ontario, Canada and copy of "Small Estate Certificate" / authenticated copy of Will is produced, therefore Letters of administration with authenticated copy should be granted to petitioner.

11. Petitioner has executed the Administration Bond dated 4th June, 2024 in the prescribed format. Hence, following order:

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ORDER

1) Petition is granted.

2) Office to issue LIMITED Letters of Administration with authenticate copy of will annexed as per the provisions of the Indian Succession Act, 1925 to the petitioner till original petitioner come and apply 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.

10.09.2024**FIRST ASSISTANT MASTER**