

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 14th June'2024.**

**Sr. No. 24 – TP – 1013 of 2024
(ECHCBM02149312023)**

Mr. S. D. Parmar, Advocate for the petitioner.

For Compliance :

1. Perused the Petition. Heard Advocate for petitioner. Advocate for petitioner submits that the present petition is for Succession Certificate in respect of certain **Debts and Securities** belonging to the deceased viz. (1) Salvador Sebastian Fernandes who died at Mumbai on 10.08.1989 . Copy of death certificate is annexed at Exhibit -'A' to the petition. deceased viz. (2) Maria Tereza Fernandes who died at Mumbai on 18.10.2004. Copy of death certificate is annexed at Exhibit -'B' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "B1" to the petition. And deceased viz. (3) Peter Francisco Fernandes who died at Mumbai on 02.09.2022. Copy of death certificate is annexed at Exhibit -'C' to the petition. Copy of the identification proof of the deceased is annexed at Exhibit "C1" to the petition.

Advocate for petitioner submits that since identification proof of the deceased No. 1 is not available petitioner had filed Affidavit dated 20.02.2024 for dispensation of identification proof of the deceased. 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 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. The said request is accepted. Copy of Affidavit for dispensation of identification proof of the deceased is filed separately to the petition.

2. Advocate for petitioner submits that the said deceased No.1, 2 and 3 ordinarily resided at B-4, Sahajeevan Society, Opp. Aram Society, Vako1a, Santacruz (East), Mumbai - 400055 and / or left properties within Greater Bombay and in the State of Maharashtra and elsewhere in India.

3. Advocate for petitioner submits that, the said deceased No. 1,2 and 3 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 the deceased No. 1, 2 and 3 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 predeceased the deceased.

Advocate for petitioner submits that deceased no. 3 (son of deceased no. 1 and 2) viz Peter Francisco Fernandes died as bachelor.

Advocate for petitioner submits that the deceased No. 1, 2 and 3 left behind them legal heirs viz. Josephine Felicidade Fernandes (married daughter of the deceased no.1 and 2/sister of deceased no. 3/petitioner herein), Julian Simplicio Fernandes (son of deceased no. 1 and 2/brother of deceased no. 3) Margaret Rose Sequeira (married daughter of deceased no. 1 and 2 / sister of deceased no. 3). 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.

Advocate for petitioner submits that Julian Simplicio Fernandes, Margaret Rose Sequeira had given their consent for issuance of succession certificate in favour of Josephine Felicidade Fernandes.

The consent affidavits are annexed as page no. 25 to 38.

6. Advocate for Petitioner submits that being the married daughter of deceased no. 1 and 2/married sister of deceased No. 3 claims to be entitled for **1/3rd** 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 **02.05.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **25.04.2024** for proving General Notice filed through e-filing and Administration Bond dated **17.05.2024** also filed through e-filing.

Advocate for the petitioner request permission to carry out the correction with respect to date of lodging of the petition in the Administration Bond and reverification

may be dispensed with. The said request is accepted. Advocate for the petitioner is allowed to carry out the correction forthwith. Reverification is dispensed with.

12. This petition is filed for grant of Succession Certificate in respect to the **debts and 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 **debts and 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.
- 3) The petitioner to file an account as undertaken in the Administration Bond within stipulated period. Necessary endorsement be made on the Administration Bond, subject to satisfaction of the Department.

ksa/rvr

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**