

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE : 18th September'2024.**

Sr. No. 16 -TP/3020/2024
(ECHCBM02058732024)

Mr. Suyash Kalbhor, Advocate i/b. B. G. Saraf 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** belonging to the deceased viz. Raphael Richard Fernandes @ Raphael Fernandes @ Raphael AbaldoFernandes @ R A Fernandes who died at Mumbai on 28.01.1999. Copy of death certificate is annexed at Exhibit -'A' to the petition.

Advocate for petitioner submits that since identification proof of the deceased is not available petitioner had filed Affidavit dated 15.03.2024 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 annexed as Exhibit “A1” to the petition.

2. Advocate for petitioner submits that the said deceased ordinarily resided at Room No.13, 1st floor, Lewis Building, Vakola Bridge, Santacruz (East) Mumbai -400055 and left properties within Greater Mumbai in the State of Maharashtra.

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

Advocate for the petitioner submits that he may be permitted to carry out correction in para no. 4 of the petition with respect to act as “Indian Succession Act, 1925”. He will upload the corrected version and request that reverification may be dispensed with. The said request is accepted. Advocate for the petitioner is permitted to carry out correction in para no. 4 of the petition with respect to the act as “Indian Succession Act”. He will upload the corrected version and reverification is dispensed with.

5. Advocate for the petitioner submits that the **parents of the deceased predeceased the deceased. The deceased died bachelor.**

Advocate for petitioner submits that the deceased left behind him brothers viz. (1) Benedict Fernandes s/o Alexander Fernandes (brother of the deceased) who has expired. (2) Marina Benedict Fernandes w/o Benedict Fernandes (sister in law of the deceased/wife of deceased brother) who has expired. (3) Nora D'souza (married niece/daughter of the deceased brother). 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 **married niece** of deceased claims to be entitled for **100%** 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 **26.07.2024** in the aforesaid matter. Advocate for the petitioner submits that Affidavit of Service dated **21.08.2024** for proving General Notice 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 **debts** 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** 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.

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**