

**BEFORE : MRS. R. V. RANE
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
DATE: 25th September, 2024**

CALLED FOR COMPLIANCE :

**Sr. No. 43 – TP / 3380 / 2024
(ECHCBMo2099792024)**

Mr. Pierre Fernandes i/b. Mr. Ivor Dcruz, Advocate for petitioner.

1. 1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Succession Certificate in respect of certain Securities belonging to the deceased viz. Aleixo Santan Fernandes alias Aleixo Manuel Fernandes alais Aleixo Fernandes alias Alex Santan Fernandes, who died at Mumbai on 17.07.2005. Copy of death certificate is annexed at Exhibit- 'A' to the petition. Copy of Identification proof of deceased is already annexed at Exhibit- 'A-1' to the petition.

2. Advocate for petitioner submits that the said deceased at the time of his death had a fixed place of abode at Mewar No. B, Dr. Deshmukh Marg, Cumballa Hill, Mumbai- 400026 and left property throughout India.

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, 1956 are mentioned in para no. 4 of the said petition.

5. Advocate for the petitioner submits that the parents and Grand-parents of the deceased predeceased the deceased. Advocate for petitioner submits that deceased was unmarried during his lifetime and has no issues. Advocate for petitioner submits that the deceased left behind him two brothers and two sisters, out of them one sister viz. Rosemarie fernandes expired on 30.09.2006 and her husband viz. Luis Caetano Fernandez predeceased the deceased, died on 30.12.2005. The said Rosemarie Fernandez died leaving behind three daughters only.

Advocate for petitioner submits that deceased left behind him two brother, one sister and three nieces viz. Joseph Lawrence Fernandes (Brother of the deceased/ petitioner herein), Peter Manuel Fernandes (Brother of the deceased), Irene Dinbandhu Desai (Sister of the deceased), Nivedita Fernandez alias Nivedita Fernandes (Niece of the deceased), Gertrude Fernandez alias Gertrude Fernandes (Niece of the deceased) and Vanessa D'Mello Nee Vanessa Fernandes alias Vanessa Fernandez (Niece of the deceased). 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 Peter Manuel Fernandes (Brother of the deceased), Irene Dinbandhu Desai (Sister of the deceased), Nivedita Fernandez alias Nivedita Fernandes (Niece of the deceased), Gertrude Fernandez alias Gertrude Fernandes (Niece of the deceased) and Vanessa D'Mello Nee Vanessa Fernandes alias Vanessa Fernandez (Niece of the deceased) had given their consent for issuance of succession certificate in favour of the petitioner viz. Joseph Lawrence Fernandes (brother of the deceased). Consent affidavits are annexed as page no. 53-72 to the petition.

6. Advocate for Petitioner submits that the Petitioner is one of the brother's of the deceased and claims to be entitled to a 1/4th (one - fourth) share of the estate of 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 The Petitioner was not aware of the securities / shares of the deceased till the petitioner found the share certificates in the cupboard about 5 to 6 years ago and wrote letters to concerned companies who insisted for Succession Certificate for transfer of the shares in the name of the Petitioner and hence arose the cause of action. Thereafter, the Covid-19 pandemic set in. The Petitioner being a senior citizen, could not file the Petition during the pandemic. The Petitioner prays that the delay in filing the present petition be condoned. 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 **06.08.2024** for proving General Notice filed through e-filing and Administration Bond dated **04.05.2024** also filed through e-filing.

It has observed that in the present petition Administration Bond is prepared and verified on 04.05.2024 before the issuance of General Notice. And the said Administration Bond is filed in the Registry on 26.08.2024. Advocate for petitioner requests to accept the said Bond. At the requests of Advocate for petitioner the said bond is accepted.

12. This petition is filed for grant of Succession Certificate in respect to the **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 **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.

25.09.2024

Ajay

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**