

**BEFORE : MRS. R. V. RANE ,
COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR
Date: 21st December, 2024**

CALLED FOR COMPLIANCE :

13 TP/4754/2024
ECHCBM02138542024
with
WILL/1886/2024

Ms. Annie M. Sebastion i/b. Johnson John, Advocate for petitioner

PC : 1. Perused Petition. Heard Ld. Advocate for petitioner. This petition is for Probate of last Will and Testament of deceased namely Karen Maria Augustus. The said deceased died at Goa on 27.03.2024. Copy of death certificate of the deceased is hereto annexed and marked as Exhibit – “A”. Copy of the Aadhaar Card of the said deceased is hereto annexed and marked as Exhibit - “A1”.

2. Ld. Advocate for petitioner submits that deceased left behind her last Will and Testament which was duly executed at Mumbai on 16.11.2023 and the same was registered before Joint Sub-Registrar, Andheri – 3, Mumbai on 16.11.2023. The said Will is in English language and copy of the same is annexed to the petition at Exhibit – “B” and original is handed in separately for being filed and kept in safe place in the office of the Prothonotary and Senior Master of this Hon'ble Court.

3. Ld. Advocate for petitioners submits that the present petitioner is the alternate Executor named in last Will and Testament of deceased dated 16th November, 2023 according to tenor thereof. Another Executor namely Stephen Martin Fernandes (inadvertently mentioned as Mr. Stephen Martin Drego) having Aadhaar Card number mentioned as 5590 8302 3024, named in the said Will dated 16th November, 2023 has renounced his appointment as Executor in favour of Petitioner namely Nathan James Gonsalvez, unconditionally and2

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with a free will and without any coercion and undue influence. Affidavit of Renunciation of Stephen Martin Fernandes dated 05.07.2024 is filed and the same is on record.

4. Ld. Advocate for petitioner submits that deceased left behind her legal heirs shown in the paragraph No. 10 of the petition, as per the provisions of the Indian Succession Act, 1925. Parents of deceased predeceased the deceased. Husband, son and brother of deceased predeceased the deceased. Deceased was survived by her sister namely MarryAnn Viona Christine Drego dated 23.05.2024 is filed. The petitioner affirmed that there are no other legal heirs of the deceased other than mentioned in para No. 10 of the petition.

5. Ld. Advocate for petitioner further submits that as regards the properties mentioned in the Will and not shown in the schedule, description thereof is given in para 7 of the petition. Deceased left behind him the properties mentioned in Schedule I annexed to the petition after deducting the debts and liabilities shown in Schedule II annexed to the petition, are mentioned in para Nos. 8 and 9 of the petition and petitioner has paid the court fees accordingly.

6. Petitioner's oath is filed. Deceased left behind Will which is annexed to the petition at Exhibit – “B” is duly executed and witnessed by two attesting Witnesses namely Lynn P. Fernandes and Carol Elizabeth Gonsalvezs and as per the provisions of Rule 374 of the Bombay High Court (Original Side) Rules, 1980, the Affidavit of Carol Elizabeth Gonsalvezs dated 05.07.2024 being one of the Attesting Witnesses to the Will is filed and the same is on record. It is to be noted that Dr. Sushil V. Tandel issued Certificate dated 14.11.2023 and certified that deceased is of sound mind and is fit to read, understand and sign her Will.

7. It is to be noted that deceased has specifically mentioned at para No. 1 of the Will that “I am of sound mind and legal age to make this will and that this last Will and Testament expresses my wishes without undue influence3

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or duress”.

8. In the present petition, General Citation was issued on 08.10.2024 and Affidavit of Service of General Citation to that effect is filed on 23.10.2024. Notice to Collector is issued. All other legal formalities are complied with.

9. After perusal of the petition, Will and submission made by Advocate for petitioner, the petition deserves to be allowed, as prayed for. Hence, following order :

ORDER

1) Petition is allowed and probate be granted to the Petitioners herein having effect throughout the State of Maharashtra, Goa and Karnataka and the alternate Executor to the Will Mr. Stephen Martin Fernandes has renounced his Executorship and rights to apply for Probate in future to the Petitioner Mr. Nathan James Gonsalves.

2) Before issuance of above said Probate, office to verify that there is no cross Petition is pending or caveat is filed. Office to act accordingly.

21.12.2024

**COMPANY REGISTRAR /
TESTAMENTARY REGISTRAR**