

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With the Testamentary Department
Date: 06th October, 2025

FOR COMPLIANCE:

129. TP/3561/2025 P. C. : Shri. Shehzad A. K. Najam -es-Sani, Ld. Advocate
with
WILL/1341/2025 for the Petitioner

- 1) This petition is filed by the petitioner, alleged to be beneficiary under the Will executed by Philomena Bridget D'Souza (herein after the same is referred to as "Testatrix"), for the grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Mumbai on 07/06/2018. Petitioner, namely Alice Teresa D'Souza, filed the copy of death certificate, identity proof of the testator, Will & petitioner's oath.
- 2) Perused petition. Heard Ld. Advocate for the petitioner. Perused documents.
- 3) The petitioner has explained the delay vide Rule 382 of the Bombay High Court (Original Side) Rule, 1980(for short "Rules").
- 4) The executor, namely Joseph Hillary Perira has not come forward to prove the Will. Hence, upon the mentioning the matter before the Hon'ble Court, the right of the executor to prove the Will came to forfeited.
- 5) Capacity of the petitioner to present the Will was questioned. Upon mentioning the matter before the Hon'ble Court said objection has been set aside and the petitioner is permitted to proceed with the petition, vide order of the Hon'ble Court dated 23.04.2025.
- 6) Petitioner stated that the deceased left behind her last Will and Testament, which was duly executed at Mumbai on 22.12.2015, in English language. The Will is handed in separately for being filed and kept in a safe place in the Office of the Prothonotary and Senior

Master, High Court, Bombay.

7) **Ld.** The advocate for the petitioner submits that the Testatrix is survived by legal heirs, whose details are given in the petition's paragraph No. 09, as per the provisions of Indian Succession Act, 1925. The petitioner affirmed that there are no other legal heirs of the deceased, except as mentioned in the petition. Legal heirs of the testatrix have consented to the petition and thereby waived the service of Citation.

8) Citation was issued, which has been duly affixed on the conspicuous part of the Hon'ble High Court and notice board of the Collector's Office at Mumbai and 14 days have been expired vide Rule 397(1) and (4) of the Bombay High Court (O.S.) Rules, 1980(for short "BHC Rules") and an affidavit to that effect has been filed. Notice to collector has been issued vide Rule 396 of BHC Rules. Till today, no one appeared to resist the claim of the petitioner or nothing is brought to the notice regarding pending litigation pertaining to the same properties. Hence, the petition is treated as uncontested one.

9) The petitioner has filed the affidavit of Pradeep D'Souza one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased signed the Testament in his presence. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will. According to him all additions and alteration in a Will were existed at the time of execution before signing the Will. Hence, there is sufficient compliance of the Rule 383 of the Rules.

10) Properties mentioned in the schedule-I of the petition are referred in the Will.

11) Other legatees have given consent to grant Letters of Administration to petitioner.

12) Petitioner has executed the

administration Bond in the prescribed format.
Hence, following order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration with Will annexed to the petitioner, renouncing the right of the Executor namely Joseph Hillary Perira, as per the Rules, having effect throughout the State of Maharashtra.
- 3) Before issuance of 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.

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with Testamentary Department