

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 09th June, 2025

FOR COMPLIANCE:

107. TP/4814/2024 P. C. : Ms. Asha Nair Ld. Advocate for the Petitioner
[Original]
(ECHCBM021706020
23)
with
WILL/1909/2024

- 1) This petition is filed by petitioner, being one of the beneficiary under the Will executed by Angela Rodrigues (herein after the same is referred to as "Testatrix"), for grant of a Letters of Administration with Will annexed. Said Testatrix said to have died at Tiswadi, Goa on 31-03-2020. Petitioner, namely Vanita Anna Mendes, filed the copy of death certificate, identity proof of the testator, certified copy of the Will, petitioner's oath.
- 2) Perused petition. Heard Ld. Advocate for 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) No executor has been appointed under the Will. The petitioner is the one of the beneficiary under the Will. Hence, petition is tenable.
- 5) Petitioner stated that the deceased left behind her last Will and Testament which was duly executed at Panji, Goa on 14.05.2018 as per the provisions of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016), in English language. The Certified Copy of 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.
- 6) Ld. Advocate for petitioner submits that Testatrix was survived by legal heirs, as per the provisions of Indian Succession Act, 1925. The petitioner affirmed that there are no other legal heirs of the deceased. Legal heir of the testatrix, namely Sunita De'Mello, has consented to the petition and thereby waived the service of

Citation.

7) Citation to non-consenting legal heir of the deceased, namely Neeta Soares, was issued, which is duly served upon her by sheriff. However, non-consenting legal heir did not resist the petition.

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 Umesh D. Rao, one of Attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that he was present and deceased signed the Testament in presence of him and another witness, after going through its contents. Hence, enough evidence is on record to accept the execution of the Will and petitioner is succeeded to prove the execution of Will.

10) Properties not mentioned in the schedule-I of the petition are referred in the Will. Ld. Advocate for the petitioner submitted that the said property given to eldest daughter namely Mrs. Sunita Valerie Demello is already transferred in her name. Hence, such wording has been mentioned in the paragraph No.6A of the Petition.

11) Furthermore, Ld advocate for petitioner submitted that in the event of sell of the property bequeathed to the petitioner, its sale proceed would be divided among the three legal heirs of the deceased. Hence, at this juncture it can not be assumed that the property would be sold.

Hence, in case of sale, petitioner has to seek permission u/s 307 of the IS Act and at that time this condition would be fulfilled by depositing the share in sale proceed. Submission is accepted, in view of Sec. 307 of IS Act.

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, upon satisfaction that the administration Bond is properly executed, as per the Rules, having effect throughout 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.

09th June, 2025

**Officer on Special Duty,
with Testamentary Department**