

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURSDICTION

INTERIM APPLICATION NO. 5617 OF 2025
IN
TESTAMENTARY PETITION NO. 1487 OF 2024

Deborah Savio Pereira and Sharon Kristina Singh .. Applicants

IN THE MATTER OF

Lily Eustance Pimenta alias Mrs. Lily Pimenta .. Deceased
Deborah Savio Pereira and Sharon Kristina Singh .. Petitioners

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• Dinesh Wani i/b Padmakar Tripathi, Advocates for Petitioner.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 14, 2025.

P.C.:

1. Heard Mr. Wani, learned Senior Advocate for Petitioner.
2. One Lily Eustance Pimenta alias Mrs. Lily Pimenta (for short "**deceased**") died on 20.05.2023. The deceased left behind her Last Will and Testament dated 07.05.2013.
3. Deborah Savio Pereira and Sharon Kristina Singh filed for grant of Letters of Administration with the Last Will. However, one of the beneficiaries under the deceased's Last Will being Mrs. Marina Coates did not file her consent affidavit to Petition for grant of Letters of Administration to the estate of deceased.

4. On 30.01.2025, aforementioned Petition was placed before the Officer on Special Duty in Testamentary Department for hearing where he held Mrs. Marina Coates was “non consenting legatee” under Rule 422(b) of Bombay High Court Original Side Rules 1980 (for short “OS Rules”).

5. Hence application is made seeking dispensation with justification of surety in respect of share of non consenting legatee Mrs. Marina Coates under Rule 422 of OS Rules.

6. Mr. Wani, learned Advocate for Petitioner would submit that all the heirs and legal representatives of the deceased named in paragraph No. 8 of the Petition gave their consent to the filing of Petition for Letters of Administration by executing requisite Consent Affidavits which are appended to the Petition with exception to Mrs. Marina Coates. He would submit that Mrs. Marina Coates is the sister of the deceased.

7. He would submit that Mrs. Marina Coates was served with Citation at her known place of address in Andheri (E) and Affidavit of Service of Citation dated 15.10.2024 was duly affirmed and filed on record. He would submit that Mrs. Marina Coates has not filed any Caveat in the Petition opposing the grant of Letters of Administration to the Petitioner.

8. I have heard Mr. Wani, learned Advocate for Petitioner and

with his able assistance and perused the record of the case.

9. It is seen that Office has raised a requirement to justify share of the non consenting legatee under Rule 422 of Bombay High Court Original Side Rules 1980. Petition is filed for Letters of Administration with Will annexed to the property and credits of the deceased.

10. It is seen that as per order dated 30.01.2025 passed by Officer on Special Duty with Testamentary Department, Petitioner / Applicant was directed to justify share of Marina, non-consenting legatee under the Will.

11. It is seen that on 27.08.2024 ,Citation was served upon Marina Coates, nonconsenting legatee under the Will and she has not opposed Petition for Letters of Administration by filing Caveat under law till date hence it seems that Mrs. Marina Coates, non-consenting legatee under the Will does not wish to impede or obstruct grant of Letters of Administration to Petitioner / Applicant. In view of the above there is no requirement to justify surety under Rule 422 of OS Rules.

12. In the circumstances, justifying surety of the share of the non consenting legatee by Petitioner does not arise. Justification of surety is therefore dispensed with.

13. Registrar of Testamentary Department is directed to issue the Letters of Administration as directed above to the above to the

Petitioner within a period of 3 weeks from today positively.

14. Testamentary Petition is allowed and disposed subject to compliance of office objections, if any, forthwith which shall be allowed by the Department. However, necessary indemnity bond be filed and the same shall suffice as adequate surety.

15. Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
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