

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 16th June, 2025

FOR COMPLIANCE:

89.TP/3029/2024 PC.: Mr. Jayant Wani i/b Haresh Parte, Ld. Advocate for the Petitioner.

1) This petition is filed by petitioner, being representative of the one of the legatee under the Will executed by Philomena Pereira Nee Philomena D'souza alias Philomena Pereira alias Philomena D'souza (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 Mumbai on 10-06-2017. Petitioner, namely Pascoal Fernandes S/o. Rosario Fernandes, filed the copy of death certificate, identity proof of the testator, copy of the Probate issued in the earlier Testamentary Petition No. 3034/2023, 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) The executors, namely Maria Pascoal Fernandes, had obtained the probate vide an order passed in the Testamentary Petition No. 3034/2023. However, before administration of the properties, she died. Other two executors, namely (1) Joseph Peter D'souza and (2) Elton Jackpaul D'souza, have relinquished executorship accordingly, such grant has been issued in the earlier petition. Hence, the petitioner being the one the legal representative of the one of the legatee under the Will has presented this petition vide Sec. 233 of the IS Act.

5) Petitioner stated that Will is already deposited with the office of the Prothonotary and Senior Master of this Court, having Will No. 1249/2023. Accordingly, the Will is 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 is survived by legal heirs, whose details are given in the petition, as per the provisions of Indian Succession Act, 1925. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition. Legal heirs of the testatrix have consented to the petition and thereby waived the service of Citation.

7) 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.

8) Will is already proved. Properties mentioned in the schedule-I of the petition are referred in the Will.

9) Other legatee, namely (1) Joseph Peter D'souza and (2) Elton Jackpaul D'souza as well as Representative of Maria Pascoal Fernandes, namely (3) Melissa Fernandes and (4) Melanie Fernandes, have given consents to grant Letters of Administration to petitioner, de-bonis-non. The petitioner has executed an administration Bond. Hence, following Order:

ORDER

- 1) Petition is granted.
- 2) Office to issue Letters of Administration with Will annexed (De-Bonis-Non) to the petitioner, 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.

16th June, 2025

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