

Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 19th August, 2025

FOR COMPLIANCE:

26. TP/3085/2024 P. Ms. Aishwarya Shetty i/b Sharda Pandey, Ld. Advocate for
C. : the petitioner

1) This is a petition for grant of Letters of Administration, under the Provisions of Indian Succession Act, 1925 (for short "IS Act") for the properties left by the deceased, namely Elizabeth Marie Lacquiere d/o of Arthur Lacquiere (For short "Said deceased"). The petitioners, namely (1) Mr. PIERRE HILARION LACQUIERE s/o Hilarion Lacquiere, (2) LILIAN CATHERINE ARTHUR w/o Arthur D'Souza & d/o Thomas Lacquiere and (3) LAWRENCE D'SOUZA s/o Lawrence D'souza, have filed documents.

2) I have heard Ld. Advocate. I perused the documents, such as true copy of the death certificate of the deceased, identity proof of the deceased, oath in the prescribed format, affidavit of service citation.

3) Said deceased died as a Spinster on 04/08/2022 at Mumbai leaving behind her legal heirs, shown in the paragraph No. 4 of the petition. Petitioners state that there are no other legal heirs to the deceased, except heirs shown in the petition. Deceased left properties shown in the schedule-I of the petition.

4) The petitioners have filed a petition for the grant of letters of administration in respect of the properties left by the deceased, namely, Elizabeth. Said Elizabeth died as a spinster, leaving behind nephews and nieces, i.e children of her two pre-deceased brothers and one pre-deceased sister. The deceased's one sister, namely Lily, predeceased her as a spinster. The deceased's one brother, Thomas, died, leaving behind his one daughter Lilian, who is the petitioner No.2.

Another brother's (Hailarian) surviving son is the petitioner No.1.

5) The deceased's one sister, Catherine, died, leaving her predeceased son's legal heirs, as stated in paragraph No. 5 of the petition. Her surviving son, Lawrence, is the petitioner No.3.

6) As per section 47 of the IS Act, children or children of the predeceased brother or sister can be the legal heir of the deceased. However, as per Sec 48 of the IS Act, if the deceased has left neither lineal descent, nor parent, nor brother or sister, then his property shall be divided equally among those of his/her relatives who are in the nearest degree of Kindred to him/her. The illustration No. (iv) to sec. 48 of the IS Act is relevant and this provision is relied upon by the Ld. Advocate for the petitioner on 12.11.2024 and sought permission to amend the petition. Accordingly, the permission has been granted and the amended table of legal heirs is given.

7) Citation was issued, which has been duly affixed on the Notice Board 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) In view of the Order, passed in the TP No. 2918/2023, the all-legal heirs of the deceased are petitioners, and therefore they are exempted from the furnishing the surety Bond.

9) Ld. Advocate for the petitioners submitted that in view of provisions of the Indian Succession Act, 1925, the petitioner nos. 1 and 3 being Nephews and Petitioner no. 2 being Niece of the deceased, are entitled to seek a Letters of

Administration. Hence, facts stated by petitioners, on oath, remained unchallenged and required to be accepted. Accordingly, petition deserves to be allowed, as prayed for. Hence, following order:

ORDER

- 1) Petition is allowed and the Letters of Administration be granted to the petitioners for properties, left by the deceased and shown in the schedule, in prescribed format as per the provisions of the Indian Succession Act, 1925.
- 2) The petitioners to file an account as under taken in a Petitioner's Oath within stipulated period.
- 3) Before issuance of the grant, the office to verify that there is no cross Petition is pending or caveat resisting the petition is filed.

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