

Before: Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date: 18th August, 2025

FOR COMPLIANCE:

89. TP/3650/2024
[Original]
(ECHCBM021979120
23)

with
WILL/1425/2024

P. C. : Shri. Jayant Wani a/w Malcom Vaz i/b Sanjay
Rego Ld. Advocate for the petitioner

1) This petition is filed by petitioner, being one of the beneficiaries under the Will executed by Dr. Yvonne Mae Freitas Alias Yvonne Mae Freitas (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 15-01-2012. Petitioner, namely Mark Leonard Freitas s/o Late Leonard Francis Xavier Freitas, filed the copy of death certificate, identity proof of the testator, 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 Testator had bequeathed the subject flat to his sister namely Lucy Freitas. However, in case she pre-deceased to the deceased the property is bequeathed to the petitioner and other legal heirs as per the Will's clause no. 1, said Lucy pre-deceased to the deceased on 12.06.2005. 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 Mumbai on 09.01.1998, in

English language. The original 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 parents of deceased predeceased Testatrix and testator 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 heirs of the testatrix have consented to the petition and thereby waived the service of Citation. One of the Sister namely Freda Emilia Pai had consented to the petition vide her consent affidavit, died during the pendency of the of the petition on 02.12.2023 at Goa. The said sister died as a widow and issue less. Such affidavit is field by the petitioner affirmed on 23.12.2024 filed on 17.01.2025 in CIS. IN para no. 2 of the said affidavit, petitioner states about the legal heirs of the deceased which is reproduced as under;

“The Petition has listed out at Para 5 the names of all the legal heirs of the deceased viz her sister Freda Emilia Pai, and her sister Late Monica Isabel’s children viz John Lawrence Nazareth, Jeanne Hromnik (nee Nazareth) and Lionel Nazareth and her brother Late Leonard Francis Xavier’s children viz Sergio Andrew Freitas, Judith Anjali Rebelo (nee Freitas), Sheila Ann DeSouza (nee Freitas) and me Mark Leonard Freitas the Petitioner herein. Her sister Lucy Freitas who was unmarried, and predeceased the deceased on 12th June 2005.”

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) The petitioner has filed the affidavit of P. J. Joseph 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. According to him all additions and alteration in a Will were existed at the time of execution and before signing the Will. Hence, there is sufficient compliance of the Rule 383 of the Rules.

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

10) Ld. advocate for the petitioner submits that as per the clause No 5 of the Will, as Moneys in Banks & in FDR's are not available on the day of filing the petition, hence, right of the legatees came to be ended.

11) Other legatees, namely John Lwarence Nazareth, Jeanne Hromnik, Linoe Nazareth, Sergio Andrew Freitas, Judith Anjali Rebelo, Sheila Ann Desouza, Anselm Julius Desouza and Anita Anselm Desouza, have given consents 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, upon satisfaction that the administration Bond is properly executed, as per the Rules, 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.

18th August, 2025

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