

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

FOR COMPLIANCE:

131. TP/4423/2024 PC.:
(AMH20240131949C
202400003)
with
CHOL/66/2025
(AMH20240131949C
2025000004)
with
WILL/1759/2024

**Shri. Shirish Mathkar a/w Ms. Swati Mathkar Ld.
Advocate for the Petitioner**

1. This petition is filed by petitioner, being Legal representative of one of the beneficiary, namely Hormazdiar Hoshang Dallas, under the Will executed by Dinshaw Hoshang Dallas (herein after the same is referred to as "Testator"), for grant of a Letters of Administration with Will annexed. Said Testator said to have died at Mumbai on 16-11-2006. Petitioner, namely Mezjan Jimi Dallas, filed the copy of death certificates, 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. The executors, namely (i) Hormazdiar Hoshang Dallas, (ii) Soli Hoshang Dallas and (iii) Jimi Hoshang Dallas, are reported to have been died on 29.12.2009, 17.02.2011 & 17.11.2006, respectively and their death certificates have been filed on the record. The petitioner is the legal representative of Hormazdiar Hoshang Dallas a one of the beneficiary under the Will of the testator.
5. Petitioner states that the one of the beneficiary namely Hormazdiar Hoshang Dallas, since deceased to the deceased, leaving his testamentary document. The petitioner and Hillu Jimi Dallas had filed the petition for the grant of probate of the said Will vide Testamentary Petition No. 580/2010. The said petition was converted into Testamentary Suit, having No. 43 of 2011. In the said Suit, parties arrived at

compromise and settled the dispute. Said Compromised has been accepted by the Hon'ble Court vide an order dated 08/11/2023. Its copy is annexed to the petition, at page No. 44 of the petition. Accordingly, the TP No. 580/2010 is has been allowed and grant has been issued. The petitioner has produced the copy of the said Grant issued on 05.07.2024 vide praecipe dated 06.05.2025. Hence, in view of Sec. 211 of the IS Act, the petitioner being the executor under the Will of Hormazdiar Hoshang Dallas is the representative of the said Hormazdiar Dallas for all purposes. Hence, petition is tenable at the instance of Petitioner in such capacity within the meaning of Sec. 233 of the IS Act.

6. Petitioner stated that the deceased left behind his last Will and Testament which was duly executed at Mumbai on 07.07.1997, 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.

7. Ld. Advocate for petitioner submits that testator is survived by legal heirs, whose details are given in the petition, as per the provisions of Hindu Succession Act, 1956. The petitioner affirmed that there are no other legal heirs of the deceased, except mentioned in the petition. Legal heir, namely Hillu Jimi Dallas, has filed the consent affidavit.

8. Legal heirs of the testator, namely Pamela, Elizabeth and Graham, have not consented to the petition.

9. In respect of the other legal heirs, namely, Maria Soli, Sayed Mohammad Kamran Ali, Mehar Navaz Cursetji and Rashida Navaz Cursetji, petitioner states that in another Testamentary Suit, having No. 43/2011 arising out of petition having No. 580 of 2010, the compromise has been arrived at and the legal heirs of the deceased, namely Maria Soli Dallas(Defe-4), Sayed Mohammad Kamaran Ali(Defe-5), Meher Navaz Cursetji(Defe-1A), Rashida Navaz

Cursetji(Defe-1B)-{Through their Constituted Attorney}, have consented for grant of letters of administration with Will annexed to the petitioner. The consent has been recorded by the Hon'ble Court vide an order dated 08/11/2023. As these legal heirs are consented for the grant of the Letters of Administration With Will Annexed to the petitioner and Merjan, solely or jointly, and this undertaking is given to the Hon'ble Court. It would be accepted as that the purpose of Rule 397 of the BHC Rules appears to have been complied with.

10. Citation to non-consenting legal heirs of the deceased, namely Pamela, Elizabeth and Graham, has been issued. Citation issued to Elizabeth and Graham has been served through postal service on 01.11.2024 and 30.10.2024, respectively, and affidavit affirmed on 06.12.2024 to that effect has been filed by the sheriff of this Court. Furthermore, petitioner states that he is not aware about the whereabouts of legal heir of the testator, namely Pamela. Hence, chamber order, having No. 66 of 2025, has been taken out to serve the Citation to non-consenting legal heir of the deceased, namely Pamela Soli Dallas, by publishing citation in the daily newspaper namely "Daily Mail", published on 11.02.2025. Accordingly, affidavit of service has been filed by the Ld. Advocate for the petitioner regarding service vide Rule 400 of the Rules. However, non-consenting legal heirs did not resist the petition.

11. 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.

12. The petitioner has filed the affidavit of Dinsoo Ratanshaw Zaiwalla, one of attesting Witnesses to the Will, in form No.102 of Bombay High Court (Original Side) Rules, 1980. He deposed that deceased signed the Testament in his presence as well as presence of 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.

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

14. Other beneficiary under the Will, namely Jimi's widow, namely Hillu Jimi Dallas, has given consent to grant Letters of Administration to petitioner.

15. 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**