

Before :Shri. P. A. Jagdale,
Officer on Special Duty,
With Testamentary Department
Date 08th May 2025

FOR COMPLIANCE:

83. TP/980/2025 P. Shri. S R Paranjpe a/w Shri. Meherasp Mistry i/b Khaitan &
(AMH202300462 C. : Co. Ld. Advocate for the Petitioner
38C202500045)

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 Colly Pheroze Sanjana (For short "Said deceased"). The petitioner, namely Dossabhoy Ardeshir Bhiwandiwalla alias Dosu Ardeshir Bhiwandiwalla, has 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 Widow on 12-06-2021 at Mumbai leaving behind him legal heirs, shown in the paragraph No. 4 of the petition. The delay has been explained vide Rule 382 of the Rules. Petitioner states that there are no other legal heirs to the deceased, except heirs shown in the petition. Petitioner states that as per the Section 55 r/w Schedule-II, Part (II) (4) of the Indian Succession Act, 1925, father of the deceased had one brother namely Khodabux Forbes who died unmarried 26.05.1980. Whereas details of the descendant of the maternal grand parents are stated in para no. 4 and 5 (page no. 12-18) of the petition. Ld. Advocate for the petitioner states that information about the legal heirs is correct. Hence, vide para no. 6 petitioner claims to be sole legal heirs of the deceased. Deceased left properties shown in the schedule-I of the petition. Petitioner states that the deceased had executed a Will, however, subject property of this petition is not subject matter of the Will. The petitioner has produced copy of the grant issued in TP/3379/2021 (Exhibit-B). Submission of

the petitioner in this regard is acceptable.

4) 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.

5) In view of order passed by the Hon'ble Court in TP Nos. 2556 & 2559 of 2022 dated 28.02.2023 and in TP/2918/2023, the petitioner being the sole heir of the deceased is exempted from furnishing the administrative bond.

6) Ld. Advocate for the petitioner submitted that in view of provisions of the Indian Succession Act, 1925, the petitioner, being Cousin Brother of the deceased, is entitled to seek a Letters of Administration. Hence, facts stated by petitioner, 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 petitioner 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 petitioner 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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