

UNREPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Test Cas.No.55/2004**

% **Date of Decision March 20, 2008**

Shri Joginder Nath Wadhwa

.....
Petitioner

! Through: Petitioner in person.

Versus

\$State Respondent

^ Through: Nemo.

CORAM:-

HON'BLE MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the Digest?

S.N.AGGARWAL, J (ORAL)

+ The petitioner Sh Joginder Nath Wadhwa has filed this *petition under Section 276 of the Indian Succession Act, 1945 seeking probate of a registered Will dated 17.10.87 of his father late Sh. Ram Lal Wadhwa who died at Delhi on 15.8.1990. On the date of his death, the father of the petitioner was survived by his widow Smt. Ram Pyari, three daughters and two sons including the petitioner. The names of all the relations of the deceased testator are given in Para 2 of the petition.

The testator's widow Smt Ram Pyari also expired before filing of the present petition on 16.2.2002. The present petition seeking probate of the Will of the deceased testator was filed by the petitioner on 13.9.2004. Soon after the filing of the said petition, the petitioner's brother Sh. Mohinder Nath

Wadhwa (respondent no.4) also expired on 20.10.2004 and on the date of his death he was survived by his widow Smt Kamlesh Wadhwa and two sons Sh. Aseem Wadhwa and Vikas Wadhwa who were impleaded as his LR's in the present petition.

The notice of the present petition was sent to all the relations of the deceased testator and a citation of the present petition was got published in 'Statesman' of 4.3.2005 edition. In response to notice of the present petition, all the relations of the deceased testator have filed their no objection to the grant of probate in respect of the Will of the deceased testator.

The Will of which probate is sought by the petitioner is a duly registered Will. It was got registered by the Registrar with the sub-Registrar vide Registration No.1770, Vol. No.443 Page 97 dated 19.4.1988. The said Will is shown to have been attested by two witnesses namely Sh.Mool Chand Sharma and Sh. K.P.Sud, Advocate. Sh. Mool Chand Sharma who is one of the attested witnesses of the Will in question has filed his affidavit in evidence and has deposed that the deceased testator Sh Ram Lal has executed his Will dated 17.10.87 in his presence and also in presence of another attesting witness Sh K.P.Sud, Advocate. Sh. Mool Chand Sharma has further testified on oath in his affidavit that the deceased testator Sh Ram Lal Wadhwa was fully conscious and was in full senses when he executed the Will Ex.PW1/1. Mr.Sharma has identified the signatures of Mr.K.P.Sud, Advocate also on the afore-mentioned Will Ex.PW1/1. The petitioner has also filed his affidavit in his evidence and has reiterated the averments contained in the petition to be correct. The petitioner has proved the death certificate of his late father in his affidavit as document Ex.PW2/1. The evidence produced by the petitioner on record to prove the Will in question has remained unrebutted and I have no reason to doubt the same.

From the unrebutted testimony on record it stands proved that the Will of which probate is sought by the petitioner was the last and genuine Will of the deceased testator and the said Will was validly executed by him while he was possessed of sound disposing mind. The petitioner and his deceased

brother Sh Mohinder Nath Wadhwa are the sole beneficiaries of the Will of their deceased father. The petitioner has also been appointed as an executor of the Will by the deceased testator.

In view of the above and having regard to the facts and circumstances of the case, it is ordered that probate of Will Ex.PW1/1 be granted in favour of the petitioner on his depositing requisite court fee and on his furnishing the administration bond for due administration of the estate of the deceased in accordance with the wishes of the deceased.

The original Will Ex.PW1/1 be kept in the safe custody.

This petition stands disposed of accordingly.

MARCH 20, 2008

S.N.AGGARWAL, J

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