

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

+ TEST.CAS. 9/2007

Reserved on 8th April 2008

Pronounced on 23rd April 2008

SMT. MADHUR BALA

..... Petitioner

Through Mr. R.P. Yadav, Advocate

versus

STATE OF DELHI AND ORS.

..... Respondents

Through

CORAM:

Mr. Justice S. Ravindra Bhat

1. **Whether reporters of local papers 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?**

Mr. Justice S. Ravindra Bhat:

1. The present petition under section 276 of the Indian Succession Act, 1925 seeks grant of probate in respect of the will executed by Smt. Attar Kaur on 6th June 1999.
2. It is submitted that the Petitioner is the sole executor under the Will of Late Smt. Attar Kaur, wife of Late Shri Phool Singh, R/o H.No.-27, Ward No.1, Mehrauli, New Delhi-110030 (hereafter called “the testatrix”). She expired on 16.5.2000 at Mehrauli, New Delhi-110030. It is also averred that the testatrix was absolute owner of the House No. 27, Ward No.1, Mehrauli, New Delhi and she had the right, interest and title to bequeath the said house. It is further averred that the testatrix left behind her son Mr. Kishan Singh as her only legal heir.

3. It is claimed that the Petitioner was appointed as the Sole Executrix of the said Will, which was executed in the presence of two witnesses. Also, that the testatrix had not executed any other will, and was in full senses while doing so without being under any pressure, coercion, and threat from any person whosoever. Further, it is averred that the estimated value of the aforesaid property was about Rs. 25 lakhs and that the testatrix did not own any other movable property other than some household articles. It is also claimed by the Petitioner that at the time of her death, the testatrix had no liabilities of any kind in respect of the property bequeathed in the Will and that it free from any kind of encumbrances.

4. In support of the averments the Petitioner has produced the original copy of the Will (Ex. PW1/1) and the original copy of the death certificate (Ex. PW1/2). The attesting witnesses to the will, M/s Raj Singh and Narinder Singh also deposed as to the genuineness of the will and that it was recorded in their presence by the testatrix. Their evidence was recorded in the form of affidavits, and taken on record during their deposition, as Ex. PW- 3/A and Ex. PW- 2/A respectively. The sole executrix of the will also filed an affidavit Ex. PW-1/A whereby she averred that the only property owned by the testatrix was the aforesaid property and that she incurred an expenditure of Rs.2000 as funeral expenses. The valuation report of the Asst. Collector Grade II, Haus Khaz Sub Division is also on record and the property is valued at Rs. 40, 92, 024/-.

5. Notice to the sole legal heir was duly served and the public notice was issued in the daily "Statesman" on 16.03.2007. On 10th May 2007 counsel on behalf Mr. Kishan Singh, the son and sole heir of the testator sought time to file reply and objections. However, the same was not filed. The court received no objection or opposition to the will.

6. From the above discussion it is apparent that the Will made by Smt. Attar Kaur on 6th June 1999 whereby she bequeathed the house situated at House No. 27, Ward No.1, Mehrauli, New Delhi, and all movables, has been duly proved through the testimony of PW-2 and PW-3. The sole heir and relative of deceased has not expressed or come forward with any objection to the grant of probate, to the petitioner, appointed by the testator as Executrix of the Will.

7. In view of the above, this court accepts the Will executed by late Smt. Attar Kaur on 6th June 1999, and grants probate of the same to the petitioner in respect of the properties, which are bequeathed in the Will subject to her paying the requisite Court fee, in terms of the valuation report and also furnishing administration bond and surety bond.

8. The petition is allowed in the above terms.

APRIL 23rd 2008

S. RAVINDRA BHAT

JUDGE