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

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+ **TEST.CAS. 30/2009**

R.K. DHEMBLA

..... Petitioner
Through **Dr. Vijendra Mahndiya, Adv.**

versus

STATE OF NCT AND OTHERS

..... Respondent

Through **Ms. Akanksha Sharma for Ms.
Ruchi Sindhwani, Adv. for resp.
No.1
Mr. Kalip Singh, Adv. for resp.
nos. 2 to 7**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

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04.11.2009

1. This probate petition has been filed by the petitioner for grant of probate of the will of Smt. Chandra Kanta Dhembla under Section 276 of the Indian Succession Act, 1925.

2. As per the petitioner, two residential plots bearing Flat No. 1107, 11th floor block 'C' at Amarapali Green, Indirapuram, Ghaziabad and Flat No. SKA 209, 2nd floor, 'A' block, Shipra Krishna Apartment, Ahimsa Khand, Indirapuram, Ghaziabad respectively were allotted to the testator, Smt. Chandra Kanta Dhembla. She died on 31st December, 2008.

Test Case No. 6/2004

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the digital data is as per the physical
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The testator executed a will on 1st December, 2008 bequeathing all her rights and interest in the abovesaid properties in favour of her husband, petitioner herein. An original copy of the said will was annexed as **Annexure P-3** with the petition.

3. It is stated that the said Will was executed by the testator out of her won free consent in good and disposing state of mind and without any inside or outside pressure. The death certificate dated 11th February, 2009 issued by the Government of U.P. was also filed on record by the petitioner.

4. The testator has signed the Will in the presence of the two witnesses namely Dr. Praveen Singhal and Mr. S.D. Sharma R/o C-701, Amarapali Green, Indirapuram, Ghaziabad, U.P. who attested the same after the testator had executed it.

5. The petitioner wrote a letter on 13th April, 2009 to Shipra Estate Ltd. for transferring flat No. 209 at Shipra Krishna Apartment, Indirapuram in his name informing them about the above said Will. Similarly, he also wrote a letter on 15th April, 2009 to AHS Joint Venture for transfer of flat no. C-1107 at Amarapali Green, Ghaziabad in the name of the petitioner on the basis of the above said Will.

6. On the basis of the above said circumstances, the petitioner prays for the probate of the Will dated 1st December, 2008 in his favour. The testator had left the following surviving legal heirs:-

- (i) Deepak Dhembla - Son
S/o Shri R.K. Dhembla,
R/o H. No. C-1107,
Amrapali Greens, Indirapuram,
Ghaziabad (U.P.)
- (ii) Ms. Sunita - Daughter
W/o Dr. O.P. Bakshi
R/o 1302, Sector-14,
Sonapat (Haryana)
- (iii) Ms. Kamal Nagpal - Daughter
W/o Shri B.B. Nagpal
R/o A-78, Gali No. 17, 3rd Floor,
Madhu Vihar, I.P. Estate,
Patparganj, Delhi.
- (vi) Ms. Sumita Gulati - Daughter
W/o Shri Rajesh Gulati
R/o 238, Dhruv Apartments, 4,
I.P. Estate, Patparganj, Delhi
- (v) Deepa Baweja - Daughter
W/o Shri Chandra Baweja
R/o C-13/1, 2nd Floor, Tulit Garden
Ardee City, Gurgaon (Haryana)
- (vi) Ms. Jyoti Sethi - Daughter
W/o Shri Raju Sethi
R/o Virgo Apartments, A-2,
2nd Floor, Behind KJ Hospital,
Poonam Ali Road, Chennai (TN)

7. It is stated by the learned counsel for the parties that the matter has been resolved between them. Respondents No.2 to 7 have filed the no objection certificate for grant of probate in the matter. Valuation report has also been filed on 30th September, 2009 in respect of other property No.2065/38, 3rd Floor, Naiwala, Karol Bagh, Delhi belonging to the testator.

8. The respondent nos. 2 to 7 namely Shri Deepak Dhembla, Ms. Sunita, Ms. Kamal Nagpal, Ms. Sumita Gulati, Ms. Deepa Baweja and Ms. Jyoti Sethi filed their affidavits on 20th October, 2009 deposing that the Will dated 1st December, 2008 was executed by Smt. Chandra Kanta Dhembla of her own free consent whereby she devised and bequeathed after her death all her rights and interests vested in the suit properties exclusively to the petitioner. It is deposed by all the respondents that they have no objection if the said Will stands probated in favour of their father Shri R.K. Dhembla, the petitioner hererin. They are also not claiming any proprietary rights in the property as mentioned in the said Will.

9. In view of no objection affidavit filed by respondent nos. 2 to 7 filed on record and since the Will is duly attested by two witnesses mentioned above and is executed by the testator in sound and disposing

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mind with her free consent and will. The Will is probated in favour of Shri R.K. Dhembala, father of the respondent nos. 2 to 7 herein.

10. The valuation report with respect to the properties bearing Flat No. 1107, 11th floor block 'C' at Amarapali Green, Indirapuram, Ghaziabad and Flat No. SKA 209, 2nd floor, 'A' block, Shipra Krishna Apartment, Ahimsa Khand, Indirapuram, Ghaziabad be filed by the Chief Revenue Controlling Authority within two weeks from today.

The probate petition is hereby disposed of.

NOVEMBER 04, 2009
Ag

MANMOHAN SINGH, J.
MANMOHAN SINGH, J.

Pet. for grant of probate
— listed in pursuance to office
note.
— Letter of Tehsildar