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IN THE HIGH COURT OF DELHI AT NEW DELHI

TESTAMENTARY CASE NO. 83/ 2008

Reserved On 10.08.2009

Pronounced on : 24.08.2009

HIRA DEVI

... PETITIONER

Through : Mr. Ajay Mehrotra, Advocate

Vs.

STATE AND ORS.

... RESPONDENTS

Through : Nemo

CORAM

Mr. Justice S. Ravindra Bhat

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| 1. | Whether reporters of local papers may be allowed to see the judgment.? | Yes |
| 2. | To be referred to the Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

Hon'ble Mr. Justice S. Ravindra Bhat:

1. The petitioner seeks grant of probate under the Indian Succession Act, 1925 concerning the Will of Shri. C.D. Dharmani (hereafter "the testator"), who died in Delhi, on 2nd January, 1987.
2. It is averred that the testator died in New Delhi on 2.1.1987. He was married to the petitioner, his widow who survived him. He left behind three sons, Ashok Dharmani, Suresh

Dharmani and Bharat Bhushan Dharmani, and three married daughters, i.e. Dr.(Ms.) Mohini Aswani, Ms. Roma Gandhi and Ms. Neelam Bhatia.

3. According to a registered Will dated 29th November, 1979, the testator bequeathed his immovable property, i.e. 7/51 South Patel Nagar, New Delhi to his widow, the petitioner, for her lifetime. After that, the said property was to devolve upon the testator's son Bharat Bhushan Dharmani, to the exclusion of all others. The cash, and other movable property were bequeathed to the testator's sons, in equal proportions.

4. It is stated that the testator was the absolute owner of all the properties, which are subject matter of the registered will and for which bequests are made, and that he executed the will when he was of sound disposing mind. The will was executed in the presence of two witnesses, namely, Mr. K.K. Kalia, and Mr. Surjit Singh. The petitioner was named as Executor in the will.

5. Notice of the petition was issued to all the legal heirs of testator. Citation was also published in the newspapers. The legal heirs and representatives of the testators filed affidavits, expressing that they do not object to the grant of the probate.

6. In order to prove the Will, the petitioner examined one of the attesting witnesses, Mr. K.K. Kalia, who proved the will, as Ex. PW-1/1 in his statement, recorded on 15.01.2009. He identified the original will and stated that the testator had executed it, at the point identified as 'A'; his signatures were identified at Point B, and the signatures of Shri Surjit Singh, were identified at Point 'C'. He said that the signatures of the testator, as well as the other witness were placed on the will in his presence. According to this attesting witness, no relative of the testator was present, when he signed the will.

7. The revenue authorities forwarded the valuation report of the immovable property. According to the report, the value of the property is Rs. 46,31,782/-.

8. From the above discussion it is apparent that the Will made by late C.D. Dharmani by which he bequeathed his properties, to the petitioner, has been duly proved through the testimony of PW-1. The other relations of deceased have expressed no objection, through affidavits, to the grant of probate, in these proceedings, to the petitioner, appointed by the testator as the sole Executrix of the Will.

9. In view of the above, this court accepts the Will Ex. PW 1/1 executed by late Shri C.D. Dharmani, and grants probate of the same to the petitioner in respect of the properties, described in the will, of which particulars are set out fully in the petition, which are bequeathed subject to her furnishing administration bond and surety bond. In case of insufficiency in court fees, as a consequence of the valuation report, the petitioner shall make good the differential amount. Subject to payment of such deficient court fee, the probate shall be issued.

10. The petition is allowed in the above terms.

24th August, 2009

(S. RAVINDRA BHAT)

JUDGE