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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ TEST.CAS. 38/2010

KIMTI LAL TANDON Petitioner
Through Mr. Vikrant Arora, Advocate.

versus

STATE & OTHERS Respondent No.1
Through Mr. Amiet Andlay, Advocate.

..... Respondents No.2 to 6
Through Ms. Shruti Verma, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

ORDER
08.11.2010

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1. This petition seeks probate of a Will by late Smt. Meena Tandon (hereinafter called the `testatrix) dated 15.12.2007. The present petitioner is the husband of the said testatrix who died on 15.5.2008.

2. The petitioner submits that the other legal representatives of the said Meena Tandon are her children, whose properties are said to be set out in para 5 of the petition. They have been also separately impleaded as respondents Nos. 2 to 6. The second and the third respondents respectively are the sons of the present petitioner and the testatrix.

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The fourth respondent is the husband of the testatrix's pre-deceased daughter and the Respondents No. 5 and 6 are her children.

3. The petition describes the properties left behind by the testatrix in paragraph 9. They included three immovable properties. The original of the Will has been produced on record which reveals that one Shri Parveen Kumar and Mrs. Leena Arora were the attesting witnesses. The Will was signed on 15.12.2007. In support of this claim, the petitioner has filed affidavit evidence of Mrs. Leena Arora dated 24.9.2010. Similarly, the petitioner's affidavit in support of the proceeding has been filed. The affidavit of PW-1, Mrs. Leena Arora states that a Will was executed by the testatrix in her presence on 15.12.2007 and in the presence of the other witness Shri Parveen Kumar. It also states that both of them had signed on the Will at the designated points. The affidavit has been produced as Exhibit PW-1/1. Mrs. Leena Arora deposed in support of the affidavit on 4.10.2010 and identified her signatures as well as those of Mr. Parveen Kumar and late testatrix Meena Tandon. The affidavit and the statement of Shri Kapil Tandon, the second respondent who is the son of the petitioner and the testatrix was also recorded on 4.10.2010. The no objection affidavits/replies on behalf of said Shri Kapil Tandon and the third respondent dated 13.9.2010 are also placed on record. Likewise, the reply of the fourth respondent for himself and as guardian of the fifth and sixth respondents dated 13.9.2010 is part of the record, expressing no objection to the Petition.

4. Having gone through the materials and the pleadings on record, the Court is satisfied that the testatrix had signed a valid and enforceable Will on 15.12.2007. She died on 15.5.2008 - as is evidenced by the certificate issued by the Municipal Corporation

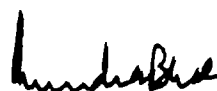
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of Delhi. The evidence also suggests that the Will was executed by the testatrix in the presence of two attesting witnesses and was also signed in her presence.

5. In the circumstances, the Court sees no impediment in holding that the Will was validly signed by the testatrix. At the same time, the Court notes that the petitioner did not designate or nominate any executor. Therefore, the petitioner is hereby appointed as Administrator in respect of the estate of late testatrix Meena Tandon.

6. In view of the above conclusion, let Letters of Administration be issued with Will dated 15.10.2007 in respect of the estate of late Meena Tandon attached with it in favour of the present petitioner. The Letters of Administration shall be issued to the petitioners subject to furnishing of Administration and Security bonds within eight weeks and subject to paying the requisite Court fees pursuant to the valuation accepted by the Court.

7. List before the Joint Registrar on 15.11.2010 to enable the petitioner to comply with the directions and complete the formalities. The Petition, Test Cas No.38/2010 is therefore allowed in the above terms.


S. RAVINDRA BHAT, J

NOVEMBER 08, 2010
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