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IN THE HIGH COURT OF DELHI AT NEW DELHI

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TEST.CAS. 47/2007

I.A. No.3692/2010

SALIM LALVANI

..... Petitioner

Through: Mr. Amitabh Chaturvedi with
Mr. Nikhil Srivastava, Advocates with
Mr. Salim Lalwani, petitioner in person.

versus

STATE & ANR.

..... Respondents

Through: None.

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

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21.10.2010

1. In this proceeding, the petitioner seeks a probate in respect of a Will dated 9.6.1993 of Late Ms. Mohini P. Lalwani (hereafter referred to as Testatrix). The Testatrix, according to the proceedings, expired on 12.06.2007.
2. The petitioner has filed the Will in original. The Testatrix apparently had two children i.e. the petitioner and the second respondent (Ms. Anjali P. Lalwani). The Will in question recites these facts and also the circumstance that the Testatrix was the sole and exclusive owner of A-1/149, Safdarjung Enclave, which is the subject matter of disposition; the Testatrix also left behind some movable properties which are listed in the schedule to the Will. The petitioner had initially alleged that second respondent was not cooperating in securing the probate even though she had been named as executrix and

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accordingly approached the Court. The petitioner contends that he is entitled to inherit 50% of the immovable properties i.e. the ground floor of the constructed portion on the property - which is borne out of the Will.

3. The Will as indicated earlier was made on 9.6.1993. It appears to have been attested by one Dr. Urmila Bhushan and one Mr. C.J. Lalwani. It is contended that the said Shri Lalwani is no longer alive. During the course proceedings, the petitioner had sought for the examination of the surviving attesting witness Dr. Urmila Bhushan. The Court had granted the application and appointed a Commissioner for this purpose. The Commissioner appointed by the Court Shri Adarsh Priyadarshi conducted the proceedings on 14.08.2010 and proceeded to record the depositions of Dr. Urmila Bhushan. In her depositions, the said witness affirmed having witnessed the due execution of the Will by the Testatrix on 9.6.1993 in her presence. The witness also mentioned about having seen the attestation of the Will by the other person Shri C.J. Lalwani and further that both of them attested the Will in the presence of the Testatrix. The witness able to identify the places where the Testatrix signed the Will. Similarly, she identified her signatures and those of Shri C.J. Lalwani.

4. Earlier, in the course of the proceedings, on 4.3.2009, this Court had recorded that the second respondent Ms. Anjali P. Lalwani, the only other heir to the estate of the Testatrix had expressed her no objection through an affidavit and disposed of the application I.A. No.9736/2007.

5. Having regard to the above discussion and the materials on record, the Court is satisfied that the petitioner has proved the signing and execution of the Will. PW-1 Ms. Urmila Bhushan has deposed as to the due execution of the Will. The petitioner has also

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placed on record the death certificate of the Testatrix. The revenue authority's valuation report in respect of the suit property is also on record. In view of these, the Court is satisfied that the petitioner is entitled to probate of the said Will of Late Ms. Mohini P. Lalwani dated 9.6.1993, subject to his furnishing Administrative and surety bond.

List before the Joint Registrar, for this purpose, on 29th November, 2010.

TEST.CAS. 47/2007 is allowed in the above terms.

OCTOBER 21, 2010
/dh/

S. Ravindra Bhat
S. RAVINDRA BHAT, J

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