

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

DECIDED ON: 26.10.2010

+ **TESTAMENTARY CASE 6/2010**

DR. (MRS) MALA CHHABRA Petitioner
Through: Mr. Kunal Sood, Advocate.

versus

STATE & ANR. Respondents
Through: None.

CORAM:
MR. JUSTICE S. RAVINDRA BHAT

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

MR. JUSTICE S.RAVINDRA BHAT (OPEN COURT)

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1. In the present proceedings, probate of the Will dated 20.08.2008 of Late Dr. Yogender Nath Chhabra is sought by his wife.

2. The brief facts are that Dr. Yogender Nath Chhabra (hereafter called “the Testator”) is said to have executed a Will dated 20.08.2008. The testator died on 3.11.2008, at New Delhi. It is submitted that the testator had, by the will, bequeathed two immovable properties i.e. one H-13, Vikas Puri, New Delhi - 110 018 and two commercial shops being Nos. 31 & 31, Sector-6, DDA Market, Phase-I, Dwarka, New Delhi. The petitioner submits that apart from these, the

testator had left behind movable properties in the form of bank accounts, Public Provident Fund accruals and a Maruti Esteem car. The Will appoints Shri Aseem Grover, the testator's brother in law and Shri D.V. Chhabra, the testator's brother as joint executors. In terms of the Will, the testator bequeathed the Vikas Puri property jointly to the petitioner, (his widow and son), the second respondent Shri Aakash Chhabra. The two shops owned by him at Dwarka were bequeathed solely to the petitioner. Similarly, he made specific dispositions in favour of his son or the petitioner as the case may be in respect of the movables and other properties.

3. The Will has been produced as PW-1/1. The testator's death certificate issued by the municipal authorities has been produced as PW-1/11. To support due execution of the Will, the petitioner relied upon the evidence of Shri Narender Kumar Sharma, PW-2 who tendered his affidavit deposition as PW-2/A as well as of Shri Rajesh Kumar Chadha, PW-3, who tendered his affidavit as PW-3/A. These two attesting witnesses clearly deposed that the late testator was known to them as he was their Doctor. Both of them stated that the Will was executed by the Testator in their presence and the presence of each other. They further were able to identify the signatures of the testator, on the Will as well as each others' signatures and deposed that each of them signed in the presence of the testator.

4. The petitioner has deposed as PW-1 and exhibited several other documents including the receipt of payment of mutation and copy of a letter by the Assistant Assessor and Collector, both of which have produced as PW-1/3 and PW-1/4. Copies of the possession letter of the two commercial shops were produced as PW-1/6 and PW-1/7 and other documents evidencing title and possession.

5. In view of the above materials, the Court is satisfied that the Will Ex.PW-1/1 was duly signed by the testator in the presence of two attesting witnesses PW-2 and PW-3. No vitiating circumstance has been brought to the notice of the Court that would cast the suspicion or doubt about the genuineness or authenticity of the Will or that it is not the last Will and testament of the testator. The heir of the estate of the testator other than the petitioner - Mr. Aakash Chhabra has not objected to the grant of probate. The Court also notices that the testator had appointed two joint executors one of them being his brother and the other his brother in law. In the circumstances, the Court is satisfied that the petitioner has proved the due execution of the Will.

6. In view of the above findings, the petitioner is entitled to probate of the Will PW-1/1 of Late Dr. Yogender Nath Chhabra; the same shall be executed by the joint executors appointed by

him. The probate shall be issued subject to furnishing administrative and security bonds and subject to the valuation of the properties.

7. Testamentary Case No.6/2010 is allowed in the above terms.

**S. RAVINDRA BHAT
(JUDGE)**

OCTOBER 26, 2010

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