

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

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Date of Decision: 26.11.2012

+ TEST. CASE No.45/2009

NAVAL MAHAJAN Petitioner
Through: Mr. K.G. Seth, Advocate
versus

NEHA ARORA Respondent
Through: None

AND

+ TEST. CASE No.46/2009

NAVAL MAHAJAN Petitioner
Through: Mr. K.G. Seth, Advocate
versus

NEHA ARORA Respondent
Through: None

**CORAM:
HON'BLE MR. JUSTICE V.K.JAIN**

JUDGMENT

V.K.JAIN, J. (ORAL)

**IAs No. 21194/2012 (O. 6 R. 17 CPC) in Test. Case No. 45/2009 and
21193/2012 (O. 6 R. 17 CPC) in Test. Case No. 46/2009**

These are two applications for amendment of Test. Case Nos. 45/2009 and
46/2009.

For the reasons stated in the applications, they are allowed and the amended

petitions in both the cases are taken on record.

The applications stand disposed of.

TEST. CASE Nos.45/2009 and 46/2009

1. The Test. Case No.45/2009 is a petition for grant of Letter of Administration which was initially filed before the learned District Judge, Delhi on 23.03.2009. The petition was filed by Mr. Naval Mahajan son of late Avinash Gupta. The petitioner sought Letter of Administration in respect of three immovable properties i.e. House No.24/25/D, Apne Enclave, Railway Station Road, Ashok Vihar, Gurgaon Haryana and two plots bearing number 57-58, District Medaek Kollur, Hyderabad (AP). Smt. Neha Arora, sister of the petitioner Naval Mahajan was impleaded as respondent in the petition. She appeared in the Court and stated that she had no objection to grant Letter of Administration to the petitioner who was her brother. The learned District Judge vide order dated 16.5.09, noted that though the deceased at the time of his death had his fixed place of abode situated within the jurisdiction of this Court, his properties in respect of which Letters of Administration had been sought were outside the jurisdiction of the Court and, therefore, it was this Court alone which had jurisdiction to entertain the petition. She accordingly directed that the petition be returned to the petitioner for presenting the same before this Court. Accordingly, the petition was filed in this Court and was registered as Test. Case No.45/2009.

2. The Test. Case No.46/2009 was also filed before the learned District Judge on the same date on which the Test. Case No.45/2009 was filed. The prayer made in this petition was exactly the same as was made in Test. Case No.45/2009. Vide order dated 16.5.09,

this petition was also directed to be returned to the petitioner on the ground that the properties in respect of which Letters of Administration had been sought were at Gurgaon and Hyderabad and, therefore, the High Court alone had the jurisdiction to entertain the petition. Accordingly, this petition was filed in this Court and registered as Test. Case No.46/2009.

3. Smt. Neha Arora had appeared in Test. Case No.46/2009 also on 23.3.2009 and had stated that she had no objection if her share in the estate of the her mother Smt. Promila Gupta i.e. Plot No. 57-58, in District Medaek, Kollur, Hyderabad (AP) was given to her brother petitioner Mr. Naval Mahajan. The same was the statement made by Smt. Neha Arora in Test. Case 45/2009 with respect to the property bearing number i.e. House No.24/25/D, Apne Enclave, Railway Station Road, Ashok Vihar, Gurgaon Haryana.

4. The case of the petitioner is that the property i.e. House No.24/25/D, Apne Enclave, Railway Station Road, Ashok Vihar, Gurgaon Haryana was owned by late Avinash Gupta father of the petitioner Mr. Naval Mahajan and respondent Smt. Neha Arora. It is also alleged that late Mr. Avinash Gupta was residing at D-3/3582, Vasant Kunj, New Delhi-110 070 i.e. from 1998 to 2002 and thereafter he was residing at House No.24/25/D, Apne Enclave, Railway Station Road, Ashok Vihar, Gurgaon Haryana.

5. The citation was published in newspaper "*The Statesman*" on 3.4.2009. No one has filed objections to this petition.

6. Mr. Seth, the learned counsel for the petitioner states that as the properties at Hyderabad have already been acquired by the Government, he is not seeking Letters of Administration with respect to those properties and the prayer is now confined to the

property i.e. House No.24/25/D, Apne Enclave, Railway Station Road, Ashok Vihar, Gurgaon Haryana.

6. Section 273 of Indian Succession Act reads as under:-

“Conclusiveness of probate or letters of administration- Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the State in which the same is or are granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors, paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration have been granted:

Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by a District Judge, where the deceased at the time of his death had a fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the State does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout 1[the other States 2[* * *].

7. It would thus be seen that the Letter of Administration, if granted by this Court, would have effect in other States as well though if granted by the District Judge, it would have effect in others States only if the deceased, at the time of his death had a fixed residence in Delhi and it was certified by him that the value of the

property and the estate beyond his limits did not exceed ten thousand rupees. This precisely was the reason why the Additional District Judge vide an order dated 16.05.2009 returned the petition being presented before this Court.

8. These petitions have been filed by the petitioner Naval Mahajan, through his attorney Shri Manohar Lal Aroa. The original Power of Attorney executed by the petitioner Naval Mahajan in favour of Manohar Lal Arora before a public notary has been filed and placed in the file of Test. Case No. 46/2009.

9. Late Shri Avinash Gupta was survived by two legal heirs, namely, the petitioner himself and his sister Neha Arora. She has already given statement that she has no objection to grant of Letter of Administration to the petitioner alone. In these circumstances, no other person is likely to be affected by grant of Letter of Administration to the plaintiff, and in any case no one has come forward to contest the petition. Both the petitions are, therefore, disposed of by directing Letter of Administration in respect of Property No. 24/25-D, Apna Enclave, Railway Station Road, Ashok Vihar, Gurgaon, which was owned by Shri Avinash Gupta be issued to the petitioner as per the rules on his furnishing Administration Bond along with requisite Surety Bonds.

Both the petitions stand disposed of.

V.K.JAIN, J

NOVEMBER 26, 2012/rd/BG