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

+ **TEST.CAS. 32/2012**

% Decided on: 5th July, 2013

PUSHPA SWAROOP Petitioner

Through: Mr. Rahul Shukla, Advocate.

versus

STATE & ANR Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J (ORAL)

1. The Petitioner has filed the present petition under Section 276 of the Indian Succession Act, 1925 for grant of probate in respect of Will dated 4th November, 2011 executed by late Smt. Krishna Ghosh (hereinafter referred to as 'the deceased').

2. By way of the Will, the Deceased Testator and elder sister of the Petitioner, who died on 7th April, 2012, has bequeathed her properties moveable and immovable including J-9/11A, Rajouri Garden, New Delhi-110027 on the Petitioner. As per the documents the property was owned by Shri Kumud Kumar Das Ghosh, husband of the deceased. As there was no child from the wedlock of Shri Kumud Kumar Das Ghosh and the deceased Smt. Krishna Ghosh, after the death of Shri Kumud Kumar Das Ghosh on 16th September, 1983, the property devolved on the deceased. Vide Ex.

PW1/4 the Property No. J-9/11A, Rajouri Garden, New Delhi-110027 was mutated in the name of the deceased Smt. Krishna Ghosh on 20th January, 1984. Thus the deceased became the absolute owner of the property. The deceased had one brother and one sister. The brother of the deceased, Pritam Singh pre-deceased the testator on 31st December, 2005. Thus at the time of execution of the Will only the Petitioner, who is the sister of the deceased testator, was alive and thus is the sole beneficiary of the Will. By virtue of the Will Ex.PW1/1 besides the property No. J-9/11A, Rajouri Garden, New Delhi-110027 the deceased had bequeathed all her movable and immovable properties in the form of bank deposits, mutual funds, ornaments etc. in the name of the Petitioner. The Will Ex. PW1/1 is a registered document registered on 9th November, 2011 with the Sub-Registrar-II, Janak Puri, Delhi vide Registration No. 5593 in Book No. -3, Volume No. 7973 at pages 166-168.

3. The citations were published in the two newspapers, that is, the English daily 'Statesman' dated 25th May, 2012 and in the Hindi daily 'Dainik Jagran' on 25th May, 2012 for information of the general public and also inviting objections, if any, against grant of probate of the Will in question. Pursuant to the publication of citations no one has filed objections to the Will. The Respondent No. 1 has been served through the Standing Counsel and has filed a valuation report dated 24th January, 2013 whereby the value of the property has been calculated as per the circle rate approved by the government and is assessed to be Rs.2,79,95,710/-.

4. The Petitioner has examined herself as PW1 and tendered her affidavit Ex. PW1/X in her examination-in-chief. She also tendered the documents Ex. PW1/1 to Ex. PW1/4 which are the Will, Death Certificate, List of

relatives and the copy of the documents showing the chain of ownership of the property and the mutation carried out in the name of the deceased. The two attesting witnesses PW2 Devinder Singh and PW3 Kailash Jain have also tendered their evidence in examination-in-chief and have stated that the Will was signed by the executant/testator in their presence, voluntarily and in sound state of mind. The Will was duly attested by them in the presence of testator and the Sub-Registrar. Thereafter the Will was duly executed and Registered on 9th November, 2011 at the office of Sub-Registrar, Janak Puri. PW1 the Petitioner has stated that none of the relatives of the testator has any interest in the self acquired property of the testator and her husband, who pre-deceased the testator on 16th September, 1983. Further her brother Pritam Singh Sadanah also predeceased the testator.

5. Thus from the evidence on record led by the Petitioner it has been proved that the deceased has left behind the Will Ex. PW1/1 dated 4th November, 2011 registered on 9th November, 2011 in respect of her estate and has bequeathed all her movable and immovable properties including House No. J-9/11A, Rajouri Garden, New Delhi-110027 in favour of the Petitioner. The Will has been proved to be genuine and correct and thus there is no impediment in accepting the Will dated 4th November, 2011 and granting probate to the Petitioner.

6. For the forgoing reasons I grant probate of the Will dated 4th November, 2011 executed by the deceased Smt. Krishna Ghosh Ex. PW1/1 to the Petitioner subject to her paying the requisite Court Fee and furnishing administrative bond and one surety to the satisfaction of the Registrar General of this Court.

7. The original Will Ex. PW1/1 which was kept in a sealed cover was opened at the time of hearing and dictating the order and has been resealed.

The petition is disposed of accordingly.

(MUKTA GUPTA)
JUDGE

JULY 05, 2013
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