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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 11<sup>th</sup> November, 2016

+ FAO 283/2016

RAJ BHARAT BHARDWAJ

..... Appellant

Through Mr Bhopal Singh, Adv.  
versus

THE STATE & ORS

..... Respondent

Through Mr S.K. Gulati with Ms Divya Jagga,  
Adv. for R6 alongwith R6 in person  
Mr D.K. Sharma, Adv. for R2 to 5

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**CORAM:**  
**HON'BLE MS. JUSTICE SUNITA GUPTA**

: SUNITA GUPTA, J. (ORAL)

1. The challenge in this appeal under Section 299 of the Indian Succession Act (hereinafter referred to as 'the Act') read with Order 41 Rule 1 CPC is to the judgment dated 17.03.2016 passed by learned Additional District Judge, Central District, Delhi in PC No. 49/2010 titled Raj Bharat Bhardwaj v. The State and Ors' whereby the petition filed by the appellant was dismissed with the observation that the appellant / petitioner alone is not entitled for grant of Letter of Administration in respect of the estate of the deceased - Shri Goverdhan Bhardwaj mentioned in the amended Schedule - B of the petition.

2. Succinctly stated, the case as set up by the appellant in the petition under Section 278 of the Act is as follows.

3. The appellant and the respondent nos. 2 to 6 are the sons and daughters of late Shri Goverdhan Bhardwaj who died intestate on 10.12.1999 at Delhi leaving behind property bearing number 24/16, Block-24, Double Storey, Moti Nagar, Delhi - 110 015. His wife Smt. Sharda Rani also expired on 05.06.2002. The appellant and the respondents are Class-I legal heirs of deceased Shri Goverdhan Bhardwaj. The appellant / petitioner filed the petition under Section 278 of the Act seeking grant of letter of administration in respect of the aforesaid property as mentioned in Schedule B in his favour.

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By:AMULYA

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4. Notice of this petition was issued to the State through Collector, all the respondents and citation to general public was published in newspaper 'Statesman'. The respondent nos. 2 to 5 entered appearance and filed their written statement in the form of 'no objection'. All of them stated that they have no objection for grant of Letter of Administration in respect of the estate of the deceased Shri Goverdhan Bhardwaj in favour of the appellant / petitioner. However, the respondent no.6 filed objections inter alia on the ground that the description of the property is not correct. Moreover, she is having 1/6<sup>th</sup> share in the estate of deceased and therefore Letter of Administration cannot be granted to the petitioner alone. The petitioner / appellant as well as the respondent no.6 led their respective evidence. Although the petitioner/appellant initially denied that the respondent no.6 has any 1/6<sup>th</sup> share in the estate of the deceased Shri Goverdhan Bhardwaj, however, subsequently he admitted that she is having 1/6<sup>th</sup> share in the suit property. Despite the fact that efforts were made by learned Additional District Judge, the matter could not be settled between the parties and the petitioner and the respondent no.6 did not agree to have joint letter of administration in respect of the estate of the deceased. The Court suo moto could not have granted joint Letter of Administration in favour of the petitioner / appellant and the respondent no.6 as she has legal right to seek partition of the property. That being so, the petition was dismissed.

5. Feeling aggrieved, the present appeal has been preferred by the appellant. It was averred that after passing of the impugned judgment, the appellant and the respondent no.6 amicably resolved all their disputes with their own free will and without any pressure, undue influence and executed a deed of mutual agreement dated 16.05.2016 whereby the appellant has paid a sum of Rs.7 lacs by way of pay order dated 17.05.2016 as full and final settlement amount in respect of 1/6<sup>th</sup> share of the respondent no.6 for the estate of the deceased and on receipt of this amount the respondent no.6 had issued a receipt acknowledging the receipt of settlement amount and no objection with regard to the property.

6. The respondent no.6 who is present in person in the Court alongwith her counsel affirmed this fact. Her statement has been recorded separately wherein she admitted that she has entered into a deed of mutual agreement Ex.RX with the appellant. Pursuant thereto she has received a sum of Rs.7 lacs in respect of her 1/6<sup>th</sup> share in the estate of deceased Shri Goverdhan Bhardwaj i.e. property bearing number 24/16, Block-24, Double Storey, Moti Nagar, Delhi - 110 015 for which she executed a receipt Ex. RY and now she is left with no claim in this property. She further stated that this agreement has been arrived at by her voluntarily without any threat, coercion or pressure of any sort. She further states that she has no objection to the grant of Letter of Administration in favour of the petitioner / appellant.

7. Learned counsel for the respondent nos. 2 to 5 also submits that respondent nos. 2 to 5 have no objection to grant of Letter of Administration in favour of the appellant as before the Trial Court also; written statement / no objection was given by them and under instructions from these respondents he reiterates that these respondents have no objection to grant of letter of administration in favour of the appellant.

8. In this change of scenario, the impugned order dated 17.03.2016 passed by learned Additional District Judge is set aside. Letter of Administration be issued in favour of the appellant in respect of estate of deceased Shri Goverdhan Bhardwaj i.e. 24/16, Block - 24, Double Storey, Moti Nagar, Delhi 110 015 as mentioned in amended Schedule B of the petition. For completion of formalities for grant of letter of administration, the parties are directed to appear before the concerned District and Sessions Judge on 28.11.2016.

9. The appeal is disposed of accordingly.

Trial Court record be sent back forthwith alongwith a copy of this order.

*Sunita Gupta*  
(SUNITA GUPTA)  
JUDGE

NOVEMBER 11, 2016/rd