

Court No. - 9

Case :- TESTAMENTARY CASES No. - 28 of 2022

Petitioner :- Aman Dutt Paliwal In The Matter Of Goods Of Late Kamlesh Kumari And Another

Respondent :- Na

Counsel for Petitioner :- Sundeep Agarwal

Counsel for Respondent :- Ashish Nigam

Hon'ble Rohit Ranjan Agarwal,J.

1. Heard Sri Sundeep Agarwal learned counsel for the petitioners and Sri Ashish Nigam, learned counsel appearing for legal heirs.
2. Petitioners- Aman Dutt Paliwal and Shantam Prashar is seeking Letters of Administration on the basis of last Will and Testament dated 20.12.2012 of Late Kamlesh Kumari who is reported to have died on 29.09.2020 at Indraprastha Appollo Hospital New Delhi. A death certificate dated 04.11.2020 has been brought on record, as per which Late Kamlesh Kumari died on 29.09.2020. The next of kins of the deceased have been specified in para 3 of the petition.
3. On the presentation of the petition, notices were directed to be issued to the Administrator General U.P. Notice of this petition was also directed to be served on Board of Revenue of U.P.
4. The citation of the petition was directed to be published in two newspapers namely, 'The Northern India Patrika' (English) and 'Aaj' (Hindi) on 12.04.2022 both published from Prayagraj.
5. Learned counsel appearing for Administrator General has filed his report that as per the records maintained in the office of Administrator General U.P. High Court, Allahabad, no case for issuance of letter of administration in respect of estate of

Late Kamlesh Kumari has been filed either by petitioners or by any other person in the office.

6. The report of Deputy Registrar, Sadar (Ist), District-Prayagraj dated 25.11.2022 states that a letter has been sent to Chancellor, University of Allahabad on 29.09.2022 seeking details of property of deceased Kamlesh Kumari, but no response has been received from Chancellor, University of Allahabad.

7. An affidavit of service has been filed bringing on record original copies of the newspapers 'Aaj' (Hindi) and 'The Northern India Patrika' (English)' both published on 23.04.2022 from Prayagraj. The original copy of the aforesaid two newspapers have been filed along with the affidavit of service. Despite the above publication in the newspapers no one has appeared to oppose grant of Letters of administration to the petitioners in respect of the estate of the deceased.

8. Pursuant to that notice, affidavits of no objection has been filed by Smt. Manju Paliwal and Krishna Dutt Paliwal through their lawyer Sri Ashish Nigam.

9. In view of above, the matter is non-contentious in nature.

10. The deceased had died at at Indraprastha Appollo Hospital New Delhi and her death certificate dated 04.11.2020 has been issued by South Delhi Municipal Corporation.

11. The Registrar General of the Court has certified under Rule 8 of Chapter XXX of the Rules of the Court that he has received no intimation from any other High Court or District Court of any grant of probate of any Will or Letters of Administration of the property and credits of the above-named deceased throughout the territory of India. Hence, the present petition is the first and the only petition seeking grant of Letters

of Administration to the estate and credits of the deceased.

12. The petitioners have filed Original Will which is unregistered and is attested by two marginal witnesses Dr. Jagdish Narain Mishra and Neeraj Kumar Verma. The petitioners have also filed separate affidavit of the attesting witness, namely, Dr. Jagdish Narain Mishra who has clearly stated in para no.4 that the Will dated 20.12.2012 was hand written by the deceased Kamlesh Kumari in our presence and I and Neeraj Kumar Verma had signed the Will as attesting witness in presence of Deceased Kamlesh Kumari.

13. On 04.10.2023, Dr. Jagdish Narain Mishra, one of the attesting witnesses to the unregistered Will dated 20.12.2012 is present in the Court, who is identified by Sri Sundeep Agarwal, learned counsel appearing for the petitioners. Dr. Mishra has made a statement that the Will was executed by deceased Kamlesh Kumari before him on 20.12.2012, and the Will was signed in pursuance of Section 63 of Indian Succession Act. In view of statement of attesting witness, Dr. Jagdish Narain Mishra, the Will executed by testator Late Kamlesh Kumari stands proved in terms of Section 68 of Indian Evidence Act.

14. The petitioners have filed details of the property/credits left behind by the deceased. As per the affidavit of valuation, the estimated total valuation of the property is Rs.20,00,000/- (Twenty Lakhs only) which is in form of Death-cum-Gratuity lying in University of Allahabad. The petitioners are directed to deposit the court fees on the amount mentioned in the affidavit of valuation, which is Rs.20,00,000/-.

15. Since the matter is non-contentious and the Will has been proved by the attesting witness who was present in the Court on 04.10.2023, there is no option for this Court but to grant Letters of Administration to the estate of the deceased to the petitioners, subject to the Registrar General certifying payment

of court fees as contemplated under Rule 9 of Chapter XXX of the Rules of the Court and on his executing administration bonds in accordance with Chapter XXX Rule 26 of the Rules of the Court. The petitioners will thereafter comply with rules and submit the statement of accounts in the Court in accordance with the rules.

16. Accordingly the letters of administration is granted with the Will annexed upto the credits and estate of deceased Late Kamlesh Kumari in favour of both the petitioners, namely, Aman Dutt Paliwal and Shantam Prashar. The petitioners will thereafter comply with rules and submit the statement of accounts in the Court in accordance with the rules.

17. The petition is **allowed** accordingly.

Order Date :- 30.11.2023

SK Goswami