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

CNR No. DLHC010353052026

+ **TEST.CAS. 41/2026**

GAGAN BUNDELA

.....Petitioner

Through: Ms. Sumita Hazarika, Mr.Chandan
Kumar and Ms.Abhilasha Gupta,
Advocates

versus

STATE GOVT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Anubhav Gupta, Panel Counsel
(Civil) GNCTD, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

05.08.2026

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1. This Petition under Section 276 of the Indian Succession Act, 1925 has been filed by the Petitioner for grant of Probate/Letters of Administration of the Will dated 04.11.2004 in respect of the immovable property being House No. 210A, Gali No. 5, Pul Pehladpur, measuring 55 Sq. Yds, Khasra No. 224, New Delhi – 110044, left behind by the grandfather of the Petitioner – Late Sh. Kanhiya Lal, who passed away on 30.06.2020.

2. Late Kanhiya Lal left behind his wife, two sons and six daughters. He had four properties, namely, House No. 71, CSP, DDA, Janta Flats, East of Kailash, New Delhi-110065, House No.210A, Gali No.5, Khasra No.224, Pul Pehladpur, New Delhi-110044 measuring 55 sq. yds., Property bearing



No.311-C/5, Khasra No.600/92, Govindpuri, Kalkaji, New Delhi-110019 measuring 300 sq. yds. and Property bearing No.B-138/2, East of Kailash, MIG, DDA Flats, New Delhi-110065.

3. Late Kanhiya Lal executed a Will dated 04.11.2004 for House No. 71, CSP, DDA, Janta Flats, East of Kailash, New Delhi-110065 in the name of his grandson, Aakash Bundela. He made a separate Will dated 04.11.2004 in respect of House No.210A, Gali No.5, Khasra No.224, Pul Pehladpur, New Delhi-110044 measuring 55 sq. yds. in favour of his second grandson, Gagan Bundela, i.e., the Petitioner herein and he made a third Will dated 04.11.2004 in respect of Property Bearing No. B138/2, MIG DDA Flats, East of Kailash, New Delhi-110065 built upto 3 floors and Property bearing No.311-C/5, Khasra No.600/92, Govindpuri, Kalkaji, New Delhi-110019 in favour of his elder son Kamal Bundela. There are therefore three separate Wills for which three separate probate petitions have been filed by the beneficiaries under the Wills.

4. Material on record also discloses that there is a partition Suit being CS(OS) No.737/2022 filed by Respondent No.5 herein, i.e., Ravi Kumar, one of the sons of Late Kanhiya Lal to whom no property has been bequeathed.

5. When a pointed question was asked to the learned Counsel for the Petitioner regarding the maintainability of the petition in this Court on the ground that this Court does not have the jurisdiction to entertain the present Petition as the affidavit of valuation of the property is for Rs.34,04,877/-. The learned Counsel for the Petitioner contends as under:-

a) That since a partition suit, being, CS(OS)737/2022 has been filed in this Court for partition of the estate of Late Sh. Kanhiya Lal, all



the probate petitions must be entertained by this Court;

- b) That Section 300 of the Indian Succession Act, 1925 confers concurrent jurisdiction on the High Court in the matters of grant of probate and therefore this Court can entertain the probate petition;
- c) Reliance is also placed on the Judgments passed by the Apex Court in Ravinder Nath Agarwal v. Yogender Nath Agarwal & Ors., Transfer Petition (C) No.970/2016 and Bai Avabai Hormusji Tata Trust v. Shernaz Faroukh Lawyer & Ors., SLP (C) No.25107/2025.

6. This Court can only entertain petitions on the original side where the value of the property is over Rs.2 crore and where the value of the property is below Rs. 2 crores, it has to be filed before the court of competent jurisdiction. Section 300 of the Indian Succession Act reads as under:-

“300. Concurrent jurisdiction of High Court.-

(1) The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

(2) Except in cases to which section 57 applies, no High Court, in exercise of the concurrent jurisdiction hereby conferred over any local area beyond the limits of the towns of Calcutta, Madras and Bombay shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the State Government has, by a notification in the Official Gazette, authorised it so to do.”

7. Section 300 of the Indian Succession Act does not confer jurisdiction on a High Court to entertain probate petitions regardless of the pecuniary



jurisdiction. A reading of Section 300 indicates that unless the State Government, by a notification in the Official Gazette, authorizes the High Court to exercise the concurrent jurisdiction, the High Court does not have the jurisdiction to entertain all probate petitions irrespective of the pecuniary jurisdiction and probate petitions can only be filed in the competent courts having pecuniary jurisdiction to entertain the probate petitions. Letters Patent of Calcutta, Madras and Bombay specifically confers jurisdiction on the said High Courts to entertain probate petitions.

8. Clause 34 of the Letters Patent of Calcutta High Court which confers the jurisdiction reads as under:-

“34. Testamentary and intestate jurisdiction.- And We do further ordain that the said High Court of Judicature at Fort William in Bengal shall have the like power and authority as that which may now be exercised by the said Supreme Court, whether within or without the Bengal Division of the Presidency of Fort William, in relation to the granting of probates of last wills and testaments, and letters of administration of the goods, chattels, credits, and all other effects whatsoever, of persons dying intestate, whether within or without the said Bengal Division.”

9. Clause 34 of the Letters Patent of Madras High Court which confers the jurisdiction reads as under:-

“34. Testamentary and intestate jurisdiction.- And We do further ordain that the said High Court of Judicature at Madras shall have the like power and authority as that which may now be lawfully exercised by the said High Court, in relation to the granting of probates of last wills and testaments, letters of administration of the goods, chattels, credits, and all other effects whatsoever, of persons dying intestate, whether within or without the



Presidency of Madras:

Provided always, that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India, by which power is given to any other Court to grant such probates and letters of administration.”

10. Clause 34 of the Letters Patent of Bombay High Court which confers the jurisdiction reads as under:-

“34. Testamentary and intestate jurisdiction. - And We do further ordain that the said High Court of Judicature at Bombay shall have the like power and authority as that which may now be lawfully exercised by the said High Court in relation to the granting of probates of last wills and testaments and letters of administration of the goods, chattels, credits and all other effects whatsoever, of persons, dying intestate, whether within or without the Presidency of Bombay:

Provided always that nothing in these Letters Patent contained shall interfere with the provisions of any law which has been made by competent legislative authority for India by which power is given to any other Court to grant such probates and letters of administration.”

11. There is no Legislation or Charter which confers jurisdiction upon this Court to entertain all probate petitions and therefore, only if the value of the property is more than Rs.2 crores, this Court has the jurisdiction to entertain the petitions.
12. The fact that a partition suit has been filed in this Court alone is not sufficient to permit filing of the probate petitions in this Court. A probate petition can be filed only in a court of competent jurisdiction capable of



entertaining such petitions. It is noted that after filing the petition, it is always open for the Petitioner to move an appropriate application under Section 24 of the CPC for getting the case transferred to this Court or move an application in the pending suit to get the probate petition transferred.

13. The Judgments in Ravinder Nath Agarwal v. Yogender Nath Agarwal & Ors., Transfer Petition (C) No.970/2016 and Bai Avabai Hormusji Tata Trust v. Shernaz Faroukh Lawyer & Ors., SLP (C) No.25107/2025 are distinguishable on facts.

14. This Court is therefore returning the present petition for the same to be filed before the court of competent jurisdiction.

SUBRAMONIUM PRASAD, J

AUGUST 05, 2026
Prateek/hsk