

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Probate No.1 of 2013

Date of Decision: March 31, 2015

Sukhdev Singh Jhajj

.....Petitioner

Vs.

General Public and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Hari Om Sharma, Advocate
for the petitioner.

Mr. Karnail Singh, Advocate
for respondents No.2 to 5.

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M.M.S. BEDI, J. (ORAL)

Sukhdev Singh Jhajj, through the present petition under Sections 276/ 278 of the Indian Succession Act has sought the grant of Probate/ Letter of Administration of a Will dated January 15, 2003 executed by his mother Amar Kaur, wife of Late Bakshish Singh, claiming that she died on February 24, 2005 at Village Bowani, Tehsil Payal, District Ludhiana. Her husband Bakshish Singh had expired prior to her death. Amar Kaur, mother of the petitioner executed a Will dated January 15, 2003

in a sound disposing mind. The Will was attested by Lakhwinder Singh, Sarpanch Village Bowani and Shamsheer Singh resident of said Village as marginal witnesses. The affidavit of said witnesses dated April 1, 2013 has been placed on record. Respondents No.2 to 5 have been impleaded being the surviving heirs of the deceased living at the addresses mentioned against their names. The petitioner was appointed as executor as well as beneficiary of the Will as such he has filed the present petition as executor. It is averred in the petition that the deceased had bequeathed her residential and ancestral property mentioned as residential house measuring 6 biswas having three rooms on ground floor, two rooms on first floor with lawn, within Lal Lakir valued at Rs.10 lacs. In addition to the said house the testator had a share in the land in Malaysia comprised in Grant No. 48705, Lot No. 1359, Mukim Semenyih, District of Ulu Langat, State of Selangor, Darul Ehsan, Malaysia measuring 14 acres. The value of the share was approximately Rs.30 lacs as conveyed by his brother Daljeet Singh Dhillon, on the basis of the information supplied by Sh. Ramchandran Shankar and Company who is handling the case of the share of the land of the mother of the petitioner in Malaysia. A copy of the letter dated February 5, 2013 is appended with the petition as annexure P-4. Schedule of the property has been attached as annexure P-5, which is as follows:-

“Schedule of Property

1. Residential and ancestral property described as
Residential House measuring 06 Biswas, having three

rooms ground floor, two rooms at first floor, with lawn, within Lal Lakir, east side residence of Shamsher Singh, west side residence of Gamdoor Singh, north residence of Harjit Singh, south street situated at Village Bowani, Tehsil Payal, District Ludhiana, owned by Smt. Amar Kaur, mother of the petitioner. The value of the house is approximately Rs.10 lacs.

2. The mother of the petitioner and daughter of S. Karam Singh has a share in the land in Malaysia, comprised in Grant No. 48705, Lot No. 1359, Mukim Semenyih, District of Ulu Langat, State of Selangor, Darul Ehsan, Malaysia approximately 57541.1484 square meters (14 acre) Rood 35,000 pole. The value of the share of the mother of the petitioner is approximately Rs.30 lacs.”

The General public was served through publication in newspapers ‘The Tribune’ and ‘Punjab Kesri’, whereas the remaining respondents No.2 to 5 were served by ordinary process. They have put in appearance through their counsel. The claim of the petitioner was not contested by any of the private respondents.

The respondents have filed a written statement admitting the claim that as per the Will, only the petitioner is entitled to succeed the estate

of Amar Kaur and is also entitled to Probate/ Letter of Administration in respect of the property of his mother Amar Kaur mentioned in the Schedule.

The petitioner appeared as PW1 in support of his case. He also furnished his affidavit dated April 7, 2014 which reads as follows:-

- “1. That Smt. Amar Kaur wife of Late S. Bakshish Singh, resident of Village Bowani, Tehsil Payal, District Ludhiana, mother of the petitioner died on 24.2.2005, at Village Bowani, Tehsil Payal, District Ludhiana. A copy of the death certificate is placed as EXP. P-1. Sh. Bakshish Singh her husband, has already been expired.
2. That during the life time Smt. Amar Kaur, mother of the petitioner, executed a Will dated 15.1.2003. At the time of execution of the Will, Smt. Amar Kaur was in a sound disposing mind. A copy of the Will is placed as EXP. P-2. The said Will was attested by Sh. Lakhwinder Singh, Sarpanch Village Bowani, and Sh Shamsheer Singh son of Sh. Sajjan Singh, resident of Bowani, as marginal witnesses. The affidavit dated 3.4.2014 of the witnesses is placed herewith as EXP P-3.
3. That besides the deponent, respondents No.2 to 5 of the petition are the surviving heirs of the

deceased, and are living at the address given above.

4. That under the Will, the deceased had appointed the deponent as an executor as well as beneficiary of the Will and the present petition has been being filed by the deponent in the capacity of an executor.
5. That the deceased Smt. Amar Kaur, wife of Late S. Bakshish Singh bequeath her residential and ancestral property described as residential house measuring 06 Biswas, having three rooms ground floor, two rooms at first floor, with lawn, within Lal Lakir, East side residence of Shamsher Singh, West side residence of Gamdoor Singh, North residence of Harjit Singh, South Street, situated at Village Bowani, Tehsil Payal, District Ludhiana to his son namely Sukhdev Singh i.e. petitioner. The value of the house is approximately Rs.10 lacs.

In addition the mother of the petitioner and daughter of S. Karam Singh has a share in the land in Malaysia, comprised in Grant No. 48705, Lot No. 1359, Mukim Semenyih, District of Ulu Langat, State of Selangor, Darul Ehsan, Malaysia

measuring approximately 57541.1484 square meters (14 acre) Rood 35,000 pole. The value of the share of the mother of the applicant is approximately Rs.30 lacs, as conveyed by my brother Sh. Daljeet Singh Dhillon vide his letter dated 5.2.2013, which is based on the information supplied by Sh.Ramachandran Shankar and Co. who is handling the case of the share of land of the mother of the petitioner in Malaysia. An extract of the letter dated 5.2.2013 is attached herewith as EXP P-4. Schedule of property is attached herewith as EXP P-5.

6. That as the land involved in the present petition is situated in the District Ludhiana and Malaysia, therefore, the present petition has been filed in this Hon'ble Court."

Shamsher Singh and Lakhwinder Singh, attesting witnesses of the Will also appeared as PW2 and PW2 respectively. The affidavits of attesting witnesses Shamsher Singh and Lakhwinder Singh were produced during their examination. Both the witnesses have stated in their affidavit that the Will Ex.P2 dated January 15, 2003 was executed by Amar Kaur. The said Will was drafted on the instructions of deceased Amar Kaur and she had signed the Will in presence of said witnesses. After signing the Will

both the witnesses had signed the same as attesting witnesses. Death of Amar Kaur on February 24, 2005 has been established by the death certificate Annexure P-1 dated February 28, 2005.

In view of the above, the petitioner is held entitled to the grant of Probate/ Letter of Administration in respect of property of Amar Kaur i.e. residential house measuring 6 biswas having three rooms on ground floor, two rooms on first floor with lawn, within Lal Lakir valued at Rs.10 lacs and a share in the land in Malaysia comprised in Grant No. 48705, Lot No. 1359, Mukim Semenyih, District of Ulu Langat, State of Selangor, Darul Ehsan, Malaysia measuring 14 acres. The value of the share was approximately Rs.30 lacs, on the basis of Will dated January 15, 2003 Ex.P2. Necessary Probate/ Letter of Administration pertaining to the property of Amar Kaur is ordered to be issued.

Allowed in the aforesaid terms.

March 31, 2015
sanjay

(M.M.S.BEDI)
JUDGE