

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

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Date of Judgment: 18.05.2015.

TEST CAS 6/2009

VIKAS UPPAL

..... Petitioner

Through: Mr. Abhishek Goyal, Adv.

Versus

STATE

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (Oral)

1. Present petition has been filed u/s 276 of the Indian Succession Act for grant of probate. The Will which is sought to be propounded is dated 10.07.2001 executed by deceased Kanta Uppal.

2. The petitioner before this Court is Vikas Uppal. He is the son of Kanta Uppal and Vinod Kumar Uppal. Vinod Kumar Uppal had expired on 21.03.2012. His death certificate is on record. Kanta Uppal had expired on 23.04.2002. Her death certificate is also on record. She had executed a Will dated 10.07.2001 which is stated to be her last Will.

3. The Class 1 legal heirs of Kanta Uppal are the present petitioner

Vikas Uppal and her daughter Sonia Uppal.

4. The affidavit of Sonia Uppal is on record wherein she has stated that she has no objection if this Will is probated in favour of her brother.

5. Notice had been issued to the State and concerned SDM who has also filed his valuation report qua the immoveable properties of the deceased is on record. Citation of this petition has also been published in the newspaper "Rashtriya Sahara". Copy of the same has been placed on record and this has been noted in the order dated 15.05.2015.

6. In the ex-parte affidavit by way of evidence filed by the petitioner, he has reiterated the averments made in the petition stating that Kanta Uppal and Vinod Kumar Uppal were her parents. His mother Kanta Uppal expired on 24.03.2002. Her death certificate is exhibited as Ex.PW-1/1. His father Vinod Kumar Uppal had expired on 21.03.2012 and his death certificate is proved as Ex.PW-1/2. The affidavit of Sonia Uppal, the only other Class 1 legal heir of deceased Kanta Uppal (besides the petitioner) giving her no objection to the probate of the Will has been proved as Ex.PW-1/4. The Will has been proved as Ex.PW-2/1. It has been attested by R.C. Berry and Anil Paul.

7. PW-2 has also entered the witness box. He has on oath deposed

that the Will dated 10.07.2011 was executed by Kanta Uppal in his presence. He has proved the Will Ex.PW-2/1 and identified the signature of the testator (Kanta Uppal) at point 'A'; further deposition being that this signature had been appended in his presence. PW-2 has also identified the signature of other attesting witness R.C. Berry who has also signed in his presence at point 'B'; the signature of PW-2 had been identified at point 'C'. The Will was also registered and as per the version of PW-2, he had accompanied the testator to the office of Sub-Registrar at the time of registration of the Will.

8. The petitioner has been able to prove his case. He is accordingly entitled to the prayer as prayed for by him. The petitioner is accordingly granted probate of the Will dated 10.07.2011 in accordance with the properties of the testator mentioned in schedule 'A' subject to his furnishing the requisite Court fee in terms of the valuation report and submitting an Administration bond with one surety in accordance with law.

9. Petition disposed of in the above terms.

INDERMEET KAUR, J

MAY 18, 2015/A

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