

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

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Order delivered on 19th August, 2015

Test Case No.58/2010

SATISH KUMAR BABLANI Petitioner
Through Mr. Aman Leekha, Adv.

versus

STATE & ORS. Respondents
Through Ms. Sonia Sharma, Adv. for R-1.
Mr.N.Menon, Adv. for R-2 to R-4.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (Oral)

1. The petitioner has preferred the present probate petition under Section 276 of the Indian Succession Act (hereinafter referred to as “the Act”) for grant of probate in respect of Will dated 8th July, 1997 executed by Late Lajpat Rai Bablani (hereinafter referred to as “the deceased”) who died on 13th January, 2006.

2. It has been stated that the petitioner had duly executed Will dated 8th July, 1997 in the presence of two witnesses in respect of residential freehold house property bearing No. E-60 Kirti Nagar, with land admeasuring 300 sq. yds and double storey building constructed thereupon, situated in the abadi of Kirti Nagar, Najafgarh Road, New Delhi and registered as document No.10048 Addl. Book I Volume No.677 on pages 223 to 234 on 21st December, 1961 in the court of

Sub-Registrar, Delhi and in respect of fixed deposits, savings bank deposit in various banks, monthly income scheme deposit with post office and monthly income scheme deposit with Unit Trust of India. In terms of the said Will, the savings bank deposits in bank and monthly deposit scheme deposits with the post office at the time of the death of deceased were released to the nominee/nominees appointed or assigned by the deceased.

3. The deceased was survived by his three sons and one daughter namely Mr. Vasudev Bablani (respondent No.2), Mr. Satish Kumar Bablani (petitioner), Dr. Yashpal Bablani (respondent No.3) and Mrs. Dinesh Juneja (respondent No.4). Mrs Rukhmani Devi, wife of the deceased, expired on 23rd November, 2005.

4. By the said Will, the deceased had appointed the petitioner to be the trustee/executor and had bequeathed in the following manner:-

(a) The petitioner shall have the power to sell, transfer and convert into money the immoveable property at E-60 Kirti Nagar, New Delhi at any time during his lifetime and with his consent, or upon his death and distribute the sale proceeds in six equal shares as follows:-

(i) One equal share each to his wife and himself if they both are alive and if he is deceased before his wife or his wife is deceased before him, then either one of us living shall receive both of their two shares;

(ii) One equal share each to three sons including trustee/executor;

(iii) One equal share to daughter;

(iv) In the event of both he and his wife are deceased, then trustee/executor shall distribute both their two equal shares in equal proportion among all the three sons and daughter if, living or among their children if any one of them is deceased, as deemed appropriate by trustee/executor.

5. Notice of the petition was issued to the respondents. Valuation report was filed by the respondent No.1 through Tehsildar on 29th August, 2011. Citations were also published in the English edition "the Statesman" and Hindi edition "Jansatta".

6. Affidavits of 'no objection' have been filed by respondent Nos. 2 to 4 in support of the petition stating therein that they have no objection for grant of probate of Will executed by the deceased in favour of the petitioner.

7. Petitioner filed his evidence by way of affidavit and examined the following who also filed evidence by way of affidavit:

- (i) Mr. Ashok Bhatnagar as PW1
- (ii) Mr. Krishan Kumar Bablani as PW2
- (iii) Petitioner himself as PW3

8. PW1 and PW2 are the attesting witnesses of the Will of the deceased. Due opportunity was given to the respondents to cross examine the above said witnesses but they did not opt to do so. The following documents were also exhibited:

- (i) Certified copy of death certificate of the deceased exhibited as Exhibit PW-3/1;

- (ii) Original newspapers i.e. Statesman and Jansatta dated 26th March, 2012 exhibited as Exhibit PW-3/2;
- (iii) Copy of the death certificate of Ms.Rukamani Devi, wife of the deceased exhibited as Exhibit PW-3/3;

9. The petitioner's evidence was closed accordingly vide order dated 29th September, 2014.

10. Having considered the facts of the case as well as documents placed on record, it appears that the Will dated 8th July, 1997 has been proved beyond doubt. Under these circumstances, the present petition is allowed. The probate is granted in favour of petitioner qua the Will dated 8th July, 1997, in respect of the property of the deceased Late Shri Lajpat Rai Bablani .

11. The valuation given by the Tehsildar is accepted.

12. Accordingly, the petition is allowed. The probate is granted in respect of the Will upon the petitioner filing the requisite court fee.

13. The probate stands disposed of.

(MANMOHAN SINGH)
JUDGE

AUGUST 19, 2015