

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

% Order delivered on: 15th October, 2015

+ **Test Case No.60/2012**

JYOTI PRADEEP BHAT & ORS. Petitioners
Through Mr. Rajeev Kumar Jha, Adv.

versus

STATE OF NCT OF DELHIRespondent
Through None

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The petitioners have preferred the present petition under Section 278 of the Indian Succession Act (hereinafter referred to as "the Act") for grant of letter of administration in respect of the immovable properties (as mentioned in Schedule A attached with the plaint) of Late Sh. Mabukal Sadanand Kini and Late Smt. Kasturi S.Kini (hereinafter referred to as "deceased") who died on 30th December, 1999 and 28th June, 2011 respectively.

2. The petitioners, who are Hindu by religion, are the only surviving class I legal heirs, being daughters of the deceased.

3. It has been further stated that the petitioner No.1 is residing in Delhi and the petitioner No.2 is presently residing in USA who had executed a General Power of Attorney dated 21st July, 2011 in

favour of the petitioner No.1 whereby the petitioner No.2 nominated and appointed petitioner No.1 to manage and control the affairs of the estate/properties/securities movable and immovable of the deceased.

4. The deceased had left behind the following properties as detailed in the petition as also in Schedule-A which are mentioned herein below:-

- (i) A house property bearing No. A-8, third floor, Overseas Apartment situated at plot No.22, Sector-9, Rohini, Delhi which was allotted to the deceased Mabukal Sadanand Kini by the proforma respondent No.2 (a Co-operative Group Housing Society Ltd. in whose favour the Perpetual Lease dated 5th April,1990 was executed by the DDA on behalf of the President of India) vide membership No.149 through Agreement dated 16th November, 1991 which was later on transferred in the name of the deceased Kasturi Sadanand Kini, wife of Late Mabukal Sadanand Kini after the demise of her husband in the year 2000;
- (ii) Plot No. 128, Kaneshmeri No. 102/128 measuring area 4000 sq. ft. situated at Shree Anantha Nagar layout in Kammasandra Village, Attibele Hobli, Anekal Taluk, Bangalore Urban District and bounded as under:
 - East: Site No.137
 - West: 80 ft. road
 - North: Site No.127
 - South: Site No.129

which was purchased by the deceased Mabukal Sadanand Kini for a sale consideration of Rs.50,000/-.

5. Notice of the petition was issued to the respondent. Valuation reports have been received from the office of SDM Rohini vide letter dated 21st March, 2014 and from the office of the Sub Registrar, Attibelli Hobli, Anekal Taluk, Bangalore vide letter dated 8th January, 2014. Citations were also published in “Jan Satta” Delhi edition, “Udayavani” Bangalore edition and “The Hindu” Delhi and Bangalore edition. However, no person on behalf of general public has filed any objection opposing the grant of “letters of Administration” to the petitioners.

6. As far as the respondent No.2 is concerned, counsel for the petitioners have already made a statement that the said respondent is only a proforma respondent being the Society where one of the flats owned by the predecessor-in-title of the petitioners is situated.

7. Petitioner No.1 has filed her affidavit in evidence as Ex.PW 1/A who was examined as PW-1 to prove the contents of the petition. She has reiterated the averments made in the petition. The documents exhibited as Ex.PW-1/1 to Ex. PW-1/12 in support of their case are filed and the same are as follows :

- Death Certificates of Late Sh. Mabukal Sadanand Kini and Late Smt. Kasturi Sadanand Kini dated 13th December, 2000 and 13th July, 2011 have been exhibited as Ex.PW1/1 and Ex.PW1/2 respectively;

- Copy of voter identity card of Late Kasturi Sadanand Kini has been exhibited as Ex.PW1/3 (OSR);
- Copies of PAN Cards of petitioner No.1, petitioner No.2 and deceased Kasturi Sadanand Kini have been exhibited as Ex.PW1/4, Ex.PW1/5 and Ex.PW1/6(OSR);
- Copy of Voter Identity Card of petitioner No.1 has been exhibited as Ex.PW1/7 (OSR);
- Copy of passport of petitioner No.2 has been marked as Mark A;
- Copy of General Power of Attorney dated 21st July, 2011 has been exhibited as Ex.PW1/8 (OSR);
- Copy of Perpetual Lease Deed dated 5th April, 1990, Possession Letter and Agreement dated 16th November, 1991 and Sale Deed dated 16th January, 1993 have been exhibited as Ex.PW1/9, Ex.PW1/10 and Ex.PW1/11 (OSR);
- Valuation reports dated 7th August, 2012 has been exhibited as Ex.PW1/12;

8. Thereafter, the petitioners closed their evidence.

9. Having considered the facts of the case as well as documents placed on record, it appears that the averments made in the petition stand uncontested and are proved by way of evidence. Accordingly, the petition is allowed. Under these circumstances, the Letters of Administration is granted in favour of the petitioners in respect of the aforementioned properties, subject to the valuation

reports already received on behalf of the State and the stamp duty shall be accordingly paid thereon.

10. Accordingly, the petition is allowed.

(MANMOHAN SINGH)
JUDGE

OCTOBER 15, 2015