

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

+ **TEST. CAS-26/2015**

% **3rd December, 2015**

SUNIL KUMAR JHA Petitioner

Through: Mr. Sunil Aggarwal, Advocate.

versus

STATE Respondent

Through: Mr. Peeyoosh Kalra, Addl. Standing
counsel for GNCTD with Ms. Sana
Babbar, Adv.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This testamentary case is filed by the petitioner Sh. Sunil Kumar Jha seeking probate of the Will dated 9.3.2011 of the deceased Smt. Santosh Sharma. Petitioner is the son of the sister (Smt. Pushpa Jha) of the deceased Smt. Santosh Jha.

2. The near relatives are specified in Schedule 1 and these legal relatives have been served but they have not filed any objections to the testamentary case.

3. Petitioner has filed two affidavits by way of evidence. One is of petitioner himself as PW-1 and another of Smt. Prakash Rani Chawla as PW-2 and who is one of the attesting witnesses to the Will dated 3.9.2011 of the deceased Smt. Santosh Sharma.

4. As per the affidavit by way of evidence of the attesting witness PW-2, she has identified the signatures of herself, the deceased testator and the other witness Smt. Asha Rani Bhardwaj on the Will. PW-2 has deposed that she put her signatures in the presence of the testator and other witnesses, who did likewise. Attesting witness PW-2 deposed that she was also present at the time of registration of the Will.

5. Petitioner as PW-1 has deposed and proved the factum with respect to the deceased Smt. Santosh Sharma being a permanent resident of Delhi. Her voter identity card is proved as Ex.PW1/1 (sic PW-1) and death certificate showing the residence as Delhi has been proved as Ex.PW-1/2(sic PW-2). Petitioner has also proved that deceased Smt. Santosh Sharma was in sound disposing mind when the Will was executed and registered.

Petitioner Sh. Sunil Kumar Jha has further deposed that he has been taking

care of the deceased Smt. Santosh Sharma till her death and this aspect is also noted in the subject Will. Petitioner as PW1 has also deposed that there was another sister Smt. Yashwant Kumari Sharma of the deceased Smt. Santosh Sharma and who also died intestate on 13.8.2011 leaving behind cash in bank of Rs.78,000/- in the State Bank of India (SBI) Bank at R.K. Puram Branch, New Delhi and petitioner would be entitled to 50% of the aforesaid amount lying in the State Bank of India, inasmuch as, on the death of Smt. Yashwant Kumari Sharma, she left behind only two legal heirs being the deceased Smt. Santosh Sharma who executed the subject Will and the children of another pre-deceased sister Smt. Pushpa Jha. Petitioner has also deposed that deceased Smt. Santosh was spinster and died leaving behind any issues.

6. In view of the evidence led on behalf of the petitioner, the subject Will dated 3.9.2011 is duly proved. It has also been proved that this Will has been registered before the sub-Registrar Noida. It has been proved that Will is duly executed and attested and that Smt. Santosh Sharma was in sound disposing mind when the Will was executed.

7. In view of the above, this testamentary case is allowed. Petitioner is granted probate of the Will dated 3.9.2011 of the deceased Smt. Santosh Sharma. Since petitioner is the sole beneficiary under the Will,

petitioner need not file any administration/surety bond and the probate be issued on the petitioner filing the necessary court fees as required by law. Petition is allowed and disposed of accordingly.

DECEMBER 03, 2015
ib

VALMIKI J. MEHTA, J.