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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST. CAS.NO.106/2014**

Decided on 22.04.2015

IN THE MATTER OF:

MANINDER SINGH

..... Petitioner

Through: Ms. Gurmeet Bindra, Advocate

versus

STATE & ANR.

..... Respondents

Through: Mr. P.S.Shetty, Advocate for R-2

CORAM
HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (Oral)

1. The petitioner has filed the present petition under Section 372 of the Indian Succession Act, for grant of Succession Certificate in his favour.

2. The petitioner is the son of late Smt.Joginder Bedi, whose demise had taken place in Delhi on 15.6.2014. The Succession Certificate is sought by the petitioner in respect of the movable assets left by late Smt.Joginder Bedi, as were acquired by her during her lifetime. It is submitted that the husband of late Smt.Joginder Bedi (father of the petitioner) had pre-deceased her and she is survived by the petitioner as the sole legal heir. As the petitioner's mother had

expired *intestate*, the present petition has been filed for grant of Succession Certificate in respect of the shares held by the deceased and lying in a demat account bearing No.10011512, maintained with the respondent No.2/Bank.

3. Notice was issued on this petition on 24.11.2014, returnable on 21.1.2015. In the meantime, the petitioner had filed an application for seeking substituted service of the respondent No.1/GNCT of Delhi, through publication. The said application was allowed vide order dated 8.12.2014 and the respondent No.1 was directed to be served through publication in the newspaper, 'The Statesman(English edition)' and 'Rashtriya Sahara(Hindi edition)' having circulation in Delhi. On 21.1.2015, the learned Joint Registrar had recorded that the respondent No.1 had been served by way of publication in the newspaper, 'Rashtriya Sahara' on 27.12.2014 and the newspaper, 'The Statesmen' on 29.12.2014. Respondent No.1 was also served separately on 3.1.2015 and the respondent No.2/Bank was duly served on 30.12.2014. Learned counsel had entered appearance on behalf of the respondent No.2/Bank and had stated that his client did not wish to contest the present petition.

4. Learned counsel for the respondent No.2/Bank reiterates that he has no objection to the Succession Certificate being granted in favour of the petitioner.

5. In support of the present petition, the petitioner has submitted his evidence by way of affidavit dated 26.2.2015, wherein, he has deposed that the deceased had expired *intestate* on 15.6.2014, leaving him behind as the sole surviving legal heir. The deceased was a permanent resident of Delhi at the time of her demise and her original death certificate has been filed and is marked as Ex.PW-1/1. In support of the submission made by the petitioner that he is the sole class-I legal heir left behind by the deceased, a surviving member certificate dated 22.8.2014 issued by the office of the Deputy Commissioner(South District), Delhi has been filed and is marked as Ex.PW-1/2. Learned counsel for the petitioner has produced the original of the said document for the Court's perusal which has been examined and returned. The details of the shares held in the demat account of the deceased maintained with the respondent No.2/Bank have been furnished in para 6 of the affidavit. A copy of the statement of holdings of the deceased issued by the respondent No.2/bank has been filed along with the affidavit and collectively marked as Ex.PW-1/3.

6. It has been averred by the petitioner that upon his mother's demise, he had approached the Bank with a request to transfer in his favour, the shares held in her demat account. However, vide letter dated 7.11.2014, the Bank had declined the said request and called upon the petitioner to submit a Succession Certificate in respect of the said account. A copy of the letter dated 7.11.2014, issued by the respondent No.2/Bank to the petitioner has been filed and marked as Ex.PW-1/4. The petitioner has also filed documents to establish the valuation of the shares held by the deceased in three companies, as detailed in para 6 of the affidavit, by enclosing extracts of the NSE index on the date of filing of the present petition, collectively marked as Ex.PW-1/5. As per the said documents, the aggregate value of the aforesaid shares was ₹87,02,499/-, on the date of filing of the present petition.

7. Learned counsel seeks grant of a Succession Certificate in favour of the petitioner and at the same time, requests that he may be permitted to furnish a personal bond but the requirement of furnishing an Administration Bond and a security bond be dispensed with on the ground that the present petition is uncontested and except for the petitioner, there is no other legal heir of the deceased.

8. There are a stream of cases, where having regard to the fact that the petitioners in testamentary cases where probate/letters of administration were sought in respect of the estate of the deceased, had been exempted from furnishing Surety Bond/Administration Bond on the ground that the will was in favour of the natural heirs and there was no contest to the request for grant of letters of administration/Probate. It was observed that where the petitioners/applicants were natural heirs/sole beneficiary of the deceased, any order directing the said petitioner(s) to stand as an administrator/surety of the estate of the deceased would amount to their/his standing surety for themselves/himself. Some of the decisions on the aforesaid lines are as follows:-

- (i) Ramachandra Ramratan vs. Ramgopal Onnkarji and Ors. reported as **AIR 1957 MP 31**
- (ii) Shambu P. Jaisinghani vs. Kanayalal P. Jaisinghani and Ors. reported as **60(1995) DLT 1**
- (iii) Shakuntala Taxali vs. State (Delhi Administration) and Ors. reported as **61 (1996) DLT 502**
- (iv) Sanjay Suri vs. State And Ors. reported as **2003 (71) DRJ 446**
- (v) Sudershan K. Chopra vs. State and Ors. reported as **2006 87 DRJ 257**
- (vi) Ira Kapoor vs. State reported as **2011 SCC Online Delhi 2840**

9. In a recent decision in the case of Rajesh Sinha and Ors. vs. State in **TEST CAS. 84/2011** decided on 06.04.2015, taking note of the judicial precedents on the above aspect, this Court had dispensed with the requirement of the petitioner therein furnishing the Administration and Surety Bond by observing as below:-

"9. On a conspectus of the above legal position on the requirement of furnishing a surety and Administration Bond, it may be noted that in a majority of decisions, it has been held that where a sole beneficiary/legatee is involved, the requirement of offering an indemnity bond/surety bond is dispensable for the simple reason that it would be an exercise in futility to call upon a sole beneficiary/legatee under a will that has been duly proved, to furnish an Administration Bond/Surety Bond when the estate of the deceased has been bequeathed in favour of the very same person. Even when it comes to cases where petitions are filed for grant of letters of administration under a will, on account of the bar imposed under Section 222 of the Act that stipulates that probate can be granted only to an executor appointed by the will, the courts have ordinarily adopted a liberal approach and have taken a pragmatic view by holding that judgments pronounced in exercise of testamentary and intestate succession are in the nature of proceedings *in rem* and the statutory provisions and rules are framed to realize the ultimate objective of succession.

10. Therefore, wherever probate has been sought of the bequest in favour of the natural heirs, and the petitioners have sought exemption from furnishing Administration Bonds/Surety Bonds they have ordinarily been exempted, reason being that a person, who is the sole beneficiary under a will, is not required to undertake duties of an administrator who in the said capacity, is expected to maintain

true accounts and a complete inventory of the estate of the deceased and administer the said estate. The aforesaid line of thought has been expressed in the cases of Sanjay Suri (supra), Sudershan K. Chopra (supra) and Richa Pardeshi (supra).

11. The same view finds resonance in cases where there are more than one beneficiary/legatee of the estate of the deceased. While reiterating the principle that the objective of testamentary and intestate jurisdiction is to enable the Court to accord legitimacy and authenticity by giving its seal of approval to succession of the estate of the deceased, the courts have observed that the ultimate objective is of grant of succession and to realize the said objective, the statutory provisions and rules ought to be interpreted in a manner that are in furtherance to realizing the intention of the deceased, instead of obstructing it by getting hypertechnical. At the same time, the courts have been cautious in cases of intestate succession for the reason that a greater degree of care is required to be taken when an administrator is to be appointed with a surety and security taken for due administration of the estate of the deceased.” (emphasis added)

10. In the present case, the petitioner is the sole legal heir of the deceased Smt.Joginder Bedi. The petition has remained uncontested. The citations issued in the newspapers, ‘The Statesman’ (English edition) and ‘Rashtriya Sahara’ (Hindi edition) have not elicited any objection from any quarters.

11. Accordingly, the petition is allowed and a Succession Certificate is granted in favour of the petitioner in respect of 87,152 Equity Shares of Delta Corp.Ltd.; 4000 Equity Shares of J.K.Pharmachem Ltd. and 2400 Preferential Shares of JSW Steel Ltd., held by the deceased,

Smt. Joginder Bedi in her demat account bearing No.10011512, maintained with the respondent No.2/Bank, upon the petitioner furnishing the requisite court fees.

12. In view of the fact that the petitioner is the sole legal heir of the deceased and the petition is uncontested, it is deemed appropriate to dispense with the requirement of the petitioner furnishing an Administration Bond and a Security Bond, on the condition that he shall furnish a personal bond for the value of the aforesaid movable assets before the Registrar General, within two weeks.

13. The petition is disposed of.

14. List before the Registrar General on 13.5.2015, for accepting the personal bond of the petitioner, as directed above.

APRIL 22, 2015
mk/rkb

HIMA KOHLI, J