

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

+ **TEST.CAS. No.89/2010**

% **26th April, 2016**

SMT. PRITAM DEVI Petitioner

Through: Mr. Baban Kumar Sharma, Advocate

versus

STATE & ORS. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this testamentary case, the petitioner Smt. Pritam Devi seeks probate of the Will dated 13.2.1995 of late Sh. Sohan Lal Chowdhary. Late Sh. Sohan Lal Chowdhary was the brother of the petitioner. Sh. Sohan Lal Chowdhary died at Delhi on 30.10.2008. Though petitioner seeks grant of probate of the Will dated 13.2.1995 of late Sh. Sohan Lal Chowdhary, since there is no executor appointed by the Will dated 13.2.1995, petitioner hence will have to be granted letters of administration with the Will annexed and not a probate, in view of Section 222 of the Indian Succession Act, 1925.

2. Petitioner has filed evidence by way of affidavits of the two attesting witnesses of the Will, namely, Smt. Suraj Kanta and Mr. Man Mohan Badhwar.

Both the attesting witnesses PW1 and PW2 have deposed with respect to their due attestation and execution of the Will. The attesting witness Smt. Suraj Kanta in her evidence by way of affidavit has deposed that the Will dated 13.2.1995 was executed by late Sh. Sohan Lal Chowdhary in the presence of the attesting witnesses and the attesting witnesses signed the Will in the presence of late Sh. Sohan Lal Chowdhary. Smt. Suraj Kanta has also deposed with respect to late Sh. Sohan Lal Chowdhary of his free will and sound mind while executing the Will dated 13.2.1995. This Will has been proved and exhibited as Ex. PW 1/1. The death certificate of Sh. Sohan Lal Chowdhary has been exhibited as Ex. PW 1/2.

3. Since the petitioner has succeeded in proving the Will, petitioner Smt. Pritam Devi is hence granted the letters of administration with the Will dated 13.2.1995 annexed and executed by late Sh. Sohan Lal Chowdhary. Petitioner be granted letters of administration with the Will annexed subject to the petitioner paying the court fees as required by law.

4. Petition is accordingly allowed and disposed of in terms of the aforesaid observations.

APRIL 26, 2016
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VALMIKI J. MEHTA, J