

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

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Decided on: 05.12.2016

+ **TEST.CAS. 86/2013**

MANEESH KWATRA

..... Petitioner

Through: Mr.Arvind Kumar Gupta and
Ms Alpana Malik, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Rajat Malhotra, Adv for GNCTD

CORAM:

HON'BLE MS. JUSTICE DEEPA SHARMA

JUDGMENT

1. The petitioner has filed the present petition under Section 276 of the Indian Succession Act, 1925 for grant of Probate of Will dated 21.05.1984 of late Shri Roshan Lal Kwatra, S/o Shri Bhagat Ram Kwatra who died on 10.06.1983 in respect of half portion of property bearing No.15 U.B., Jawahar Nagar, Delhi. It is submitted that Shri Roshan Lal Kwatra was a citizen of India, however, he was residing at 273, Sukumvit 31 (Sawasdee), Alley, Khlong Tan Nuea Sub-District, Vadhana District, Bangkok Metroplis and was a permanent resident of 15 U.B., Jawahar Nagar, Delhi. He was the owner of half share of this property by virtue of Will dated 27.09.1980, executed by his late father in favour of his two sons Prem Prakash Kwatra,

father of the petitioner and Shri Roshan Lal Kwatra. The details of the property is mentioned in Schedule A. It is submitted that this Will is the last Will of Shri Roshan Lal Kwatra. He left behind his son and two daughters, namely, Shri Bharat Bhushan Kwatra, Smt. Prem Mala Roachvalit and Smt. Meena Roachsilthum. The petitioner is the nephew of the deceased and beneficiary and the deceased Shri Roshan Lal Kwatra was his real uncle. It is submitted that he executed the said Will of his own free will and without any coercion and undue influence and that he was in his sound and disposing mind and health at the time of execution of the said Will. The said Will was duly attested by the witnesses.

2. The notice was issued to the State and also to the legal heirs shown in Schedule 'B' and the citation was also published in the newspaper "The Statesman (English edition)" and "Jansatta (Hindi edition)" of 16.01.2014.

3. The Valuation Report was also submitted and the property is valued at Rs.3,54,31,000/-. All the legal heirs of deceased Roshan Lal Kwatra furnished their no objections along with their affidavits to this effect.

4. The petitioner has examined two witnesses. The petitioner has examined himself as PW-2 and has proved his affidavit which he had tendered in examination-in-chief as PW-2/A. The conveyance deed of

property No.15 U.B., Jawahar Nagar, Delhi in the name of Bhagat Ram Kwatra and Veran Devi dated 27.04.1954 as Ex.PW-2/1. He has also deposed that Smt. Veran Devi died on 28.06.1971 and upon her demise, the property was mutated vide letter dated 26.09.1972 in the name of Bhagat Ram Kwatra. The Mutation Letter dated 26.9.1972 was executed as PW-2/2. The Will executed by Bhagat Ram Kwatra dated 27.09.1980 is proved as Ex.PW-2/3. The Death Certificate of Bhagat Ram Kwatra dated 10.06.1983 is proved on record as Ex.PW-2/4. He has also proved on record that vide Will dated 27.09.1980, his grandfather Shri Bhagat Ram Kwatra left the property jointly in the name of his father and Shri Roshan Lal Kwatra. He has proved on record the death certificate of Roshal Lal Kwatra issued by Indian High Commission, Bangkok as Ex.PW-2/5. He has also proved that vide Will dated 21.05.1984, Shri Roshan Lal Kwatra bequeathed his half share of property bearing No. 15 U.B. Jawahar Nagar, Delhi to him. He has also deposed that Shri Roshan Lal Kwatra was survived by his two daughters and son and they have given their no objection for grant of probate in his favour. He has also examined one of the legal heirs of Shri Roshan Lal Kwatra, i.e., Smt. Prem Mala Roachvalit as Ex.PW-1. She has proved her affidavit which she had furnished in evidence as PW-1/A. She

has also duly stated that half share in this property was owned by her father who executed a Will dated 21.05.1984 and he was survived by three legal heirs; two daughters, including her and one son. She identified the signature of her father, i.e., Shri Roshan Lal Kwatra at Point 'A'. She identified her signatures on the Will at Point 'B' and signatures of other attesting witness Ms Meena Roachsithum at point 'C'. She has also proved that this Will was executed in the presence of Consular Section of the Indian High Commission in Bangkok on 21.05.1984 and that they had also appeared in the Consular Office at the time of execution of the Will.

5. I have heard the arguments of the learned counsel for the petitioner.

6. From the evidences and the other material on record, I am satisfied that the petitioner had duly proved that the property was owned by his grandfather Shri Bhagat Ram Kwatra and he bequeathed half portion of this property to Shri Roshan Lal Kwatra, who, in turn, made a Will and bequeathed his half share in that property in favour of the petitioner. One of the legal heirs Smt. Meena Roachsilthum has also deposed that this Will dated 21.05.1984 was attested and executed in the presence of Indian High Commission, Bangkok and stated that she and her sister Smt. Prem Mala Roachvalit was the attesting witnesses of that Will and that she identified the

signature of her father on that Will and duly proved that they were also present in the Consular Section of the Indian High Commission in Bangkok at the time the Will was executed. The citation was also published in the two newspapers and no other legal heirs of the deceased had come forward to challenge the Will. The son and other daughter of the deceased, namely, Bharat Bhushan Kwatra and Prem Mala Roachvalit have also filed their affidavits to the effect that they had no objection to grant of probate in favour of the petitioner. I find no impediment in granting the Probate to the petitioner in respect of the Will dated 21.05.1984 of the Testator. The Valuation Report has been submitted by SDM (Civil Lines) and the property is valued at Rs.3,54,31,000/-

7. In the light of the above discussion, Probate of Will dated 21.05.1984 is granted to the petitioner in respect of the half portion of the property bearing No. 15 U.B., Jawahar Nagar, Delhi, subject to his paying requisite Court fee. He is liable to pay Court fee on the 50% of the valuation of the property as he is seeking Probate of the half portion of the property and the Valuation Report relates to whole of the property. The Probate shall be granted on his furnishing administrative bond with one surety to the

satisfaction of the Registrar General of this Court within three months from this order.

8. The petition stands disposed of.

**DEEPA SHARMA
(JUDGE)**

**DECEMBER 05, 2016
BG**

