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

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TEST.CAS. 90/2013

JOGINDER SINGH SETHI AND ANR Petitioners

Through: Mr. Bhagat Singh, Advocate.

versus

STATE & ORS

..... Respondents

Through: None.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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02.09.2016

1. This is a petition under Section 276 of the Indian Succession Act, 1925 ('Act') for grant of probate of the Will dated 17th June 1983 of late Smt. Harjit Kaur ('Testator'). The Petitioners, Joginder Singh Sethi (Petitioner No.1) AND Gurinder Singh Sethi (Petitioner No. 2) are the sons of the deceased Testator and Kanwaljit Kaur Sahni (Respondent No. 2) and Paramjit Kaur Lamba (Respondent No. 3) are her daughters.

2. The Testator is stated to have passed away at New Delhi on 13th February 2003. A copy of her death certificate as issued by the Municipal Corporation of Delhi has been exhibited as **EX PW1/1**. She is stated to have been a permanent resident of New Delhi since 1956. At the time of her death, is stated to be the owner and in possession of the property bearing no. C - 30 Rajouri Garden, New Delhi - 110027.

3. The Testator executed a Will on 17th June 1983 at New Delhi in the presence of two witnesses, Mr. Nirwair Singh and Mr. Jagjit Singh Kochar. The witnesses are stated to have signed it in the presence of each other. It is also stated that the said Will is the last Will of the Testator. The original Will dated 17th June 1983 is exhibited as **EX PW - 2/1**.

4. The Will states that the Testator executes this said Will as her last Will and that she is “absolutely seized and possessed of immovable built up properties bearing No. C-30, Rajouri Garden, New Delhi – 10027.” The Will also states that the Testator has great affection and love for the Petitioners and that they have been looking after the Testator sincerely and in a well devoted manner. The Will further states that in order to avoid any dispute that might arise amongst her legal representatives after her death, she bequeaths to the Petitioners, in equal shares absolutely and forever and to the exclusion of her other legal representatives, the said property bearing No. C-30, Rajouri Garden, New Delhi – 10027 and all other moveable assets and immoveable properties the Testator possesses or might thereafter acquire in equal shares.

5. The Will states that the Testator was executing the said Will in sound health, out of free will, without any coercion, influence, force or compulsion and after understanding its contents which were explained to her in vernacular. It states that the Testator has signed the said Will in the presence of the witnesses.

6. The Petitioners, who are the two sons of the Testator, state that the contents of the said Will were disclosed to the family members and legal heirs of the Testator and in their presence, the Testator handed over the Will to the Petitioner No. 1, who is her eldest son, for safekeeping.

7. The Petitioners are permanent residents of Delhi and beneficiaries under the Will dated 17th June 1983. They are in possession of the property at C-30 Rajouri Garden, New Delhi.

8. The Respondents No. 2 and 3 entered their appearance through counsel

on 30th April 2014 and submitted that they had no objection for grant of probate to the Petitioners. The respective affidavits of the Respondent No. 2 and 3 dated 17th June 1983 to that effect is on record.

9. The Petitioner No. 1 has filed an affidavit by way of evidence reiterating the averments in the petition. Mr. Nirwair Singh, one of the two attesting witnesses, filed an affidavit of evidence in which he has confirmed that the Will was executed by the Testator as her last Will in the presence of the two witnesses and acknowledging the content thereof. It is sated in the petition that the other attesting witness, Mr. Jagjit Singh Kochar has already expired.

10. The evidence on behalf of the Petitioners remains uncontroverted. The State too has not raised any objection. The Tehsildar/Executive Magistrate (Rajouri Garden) has already filed the valuation report, which has been taken on record.

11. The genuineness of the Will having been proved in accordance with law, there is no impediment to the grant of Letters of Administration in respect thereof in favour of the Petitioners under Section 278 of the Act.

12. The petition is allowed. Letters of Administration with the Will dated 17th June 1983 of late Smt. Harjit Kaur annexed is granted to the Petitioners subject to their furnishing an administration bond with one surety to the satisfaction of the Registrar General of this Court.

S. MURALIDHAR, J

SEPTEMBER 02, 2016

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