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

*Date of Decision: November 02, 2016*

+ **FAO 438/2016**

ANIL KUMAR KATARMAL ..... Appellant

Through: Mr. Shaad Anwar, Advocate

versus

THE STATE & ORS ..... Respondents

Through: Ms. Aayushi Gupta, Advocate for  
Mr. Raman Duggal, Standing  
Counsel of GNCT (Civil) for  
respondent No.1

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**

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**(ORAL)**

**C.M.No.32638/2016 (delay)**

There is delay of 143 days in filing the accompanying appeal.

The reason put forth for the delay occasioned is that appellant had tried his best to arrange a surety for a sum of ₹49 lacs odd, but he could not find one and so, this resulted in the delay in filing the instant appeal.

The averments made in paragraphs No.3 to 5 of the instant application provide sufficient cause for the delay occasioned. The application is allowed and the delay stands condoned.

The application stands disposed of.

**FAO 438/2016**

Impugned order of 13<sup>th</sup> January, 2016 grants Letter of Administration in favour of appellant in respect of MIG flat No.365, Vikas Kunj, Vikas Puri, New Delhi-18 while taking note of the fact that respondents No.3 to 9 have given '*No Objection*' to the grant of Letter of Administration to appellant in respect of afore-referred immovable property. However, impugned order binds the appellant to furnish an administration bond with one surety of the like amount. Respondents No.3 to 9 are said to be *pro forma* respondents in this appeal.

In the instant appeal, it is submitted by learned counsel for appellant that the deceased was a bachelor and appellant being the real nephew of the deceased is entitled to the Letter of Administration in respect of the aforesaid immovable property as '*No Objections Certificates*' have been already furnished by respondents No.3 to 9 and so, requirement of furnishing of a surety of huge amount of ₹49 lacs odd is wholly unjustified. Thus, modification of impugned order to the extent of deleting the onerous condition of furnishing the surety is sought as it is submitted that appellant is ready to furnish the Administration Bond alongwith an indemnity bond by a surety who would be a government servant.

Attention of this Court is drawn to the decisions of this Court in *Shakuntala Tazali v. State (Delhi Administration) and Others*, 1996 (61) DLT 267; *Sanjay Suri v. State*, 2003 (107) DLT 626 and *Richa Pardeshi v. State*, 2012 (131) DRJ 92 to submit that in a case like the instant one,

the requirement of furnishing of administration bond has been already dispensed with.

On the aspect of furnishing of surety alongwith administration bond, the pertinent observations made by a co-ordinate Bench of this Court in *Sanjay Suri (supra)* are as under: -

*“Considering the nature of the Testamentary and Intestate succession, the object and purpose sought to be achieved by Section 291 and thus applying the aforesaid principles of interpretation of statutes, it would be seen that Section 291 of the Act is not intended to cover within its ambit the cases of a sole beneficiary and legal heir under a Will being required to furnish administration/surety bond. One cannot administer the estate or his own estate against himself, for which he be required to give an indemnity or administration bond. Besides, none of the purposes and objectives of Section 291 of the Act are covered or fulfilled by the execution of an administration/surety bond by the sole inheritor or beneficiary under the Will duly proved. Such an exercise would be an exercise in futility. In the instant case if the petitioner's grand son was to mismanage or maladminister, he would be, doing so only against his own and personal interests. A right that clearly vests in him by virtue of the bequest. Hence insistence of furnishing the administration bond in the present case would not only be meaningless and without any purpose, but inconsistent with succession. Section 291 in the light of the foregoing principles of interpretation, as noticed, has to be interpreted so as not being applicable to a case of a sole beneficiary and legal heir, under a duly proved*

*Will insofar as requirement of furnishing an administration bond is concerned.”*

Upon hearing and on perusal of impugned order and in the peculiar facts and circumstances of this case, the decisions cited and the legal position, as noted above, I find that obtaining of a surety of the like amount would be an exercise in futility as furnishing of administration bond alongwith indemnity bond from a surety, who is a government servant, would suffice.

In view of the aforesaid, impugned order is modified to the extent that the direction of furnishing surety in the like amount i.e. ₹49 lacs odd is dispensed with and is substituted with a direction to furnish an indemnity bond from a surety who happens to be a government servant. In addition to the furnishing of administration bond, appellant shall also furnish an indemnity bond.

With aforesaid modification, this appeal is disposed of.

**(SUNIL GAUR)**  
**JUDGE**

**NOVEMBER 02, 2016**

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