

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Probate No.5 of 2016
Date of Decision: 21.12.2017**

Deepak Raj Bindra

.....Petitioner

Vs

General Public and another

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Animesh Sharma, Advocate
for the petitioner.

Mr. Amandeep Singh Talwar, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. The present petition has been filed under Part IX, Sections 270, 276 and 300 of the Indian Succession Act, 1925 for the issuance of letter of Administration/Probate in favour of the petitioner in respect of Will dated 11.08.2010 executed by Krishan Mohan Bindra son of Mulk Raj Bindra resident of #2 Dordrecht Road, Acton, London, W3 7TE, United Kingdom.

[2]. It has been alleged by the petitioner that he is resident of 44 Wendover Court, Finchley Road, London NW2 2PH, United Kingdom and is currently residing at H.No.266, Sector

11-A, Chandigarh. The petitioner is the nephew of the deceased Krishan Mohan Bindra, an Indian citizen, who was residing in London (U.K.) and died in London on 03.05.2015 on account of natural causes. At the time of his death, he was possessing immovable and movable properties in India.

[3]. Petitioner has alleged that deceased Krishan Mohan Bindra had executed a Will dated 11.08.2010 and testament in respect of his estate in India. The said Will/testament of Krishan Mohan Bindra is claimed to be his last Will, executed by him in London (U.K.) in the presence of witnesses namely Hemant Puri and Noreen Puri in a sound state of mind and health. Petitioner claimed himself to be the executor and trustee named in the aforesaid Will. As per the said Will, 100% share of residue from immovable properties and 50% share of residue arising from movable properties have been bequeathed in favour of the petitioner and remaining share in movable properties will devolve upon other beneficiaries in terms of Will dated 11.08.2010. It was further alleged that deceased Krishan Mohan Bindra was unmarried and survived by his one sister namely Uma Rani as class-II heir, who has given an affidavit in support of grant of letter of Administration/Probate in favour of the plaintiff.

[4]. As per schedule of description of immovable assets of

deceased Krishan Mohan Bindra, major chunk of which falls within the jurisdiction of this Court which is reproduced as under:-

- “1. 1/3rd share in House No.173, Model Town, Jalandhar, measuring 2 Kanals 9 Marlas.*
- 2. 1/3rd Share in agricultural land measuring 3 Kanals and 18 Marlas falling in Basti Shah Kuli, falling in Khewat Number 50/49, Khatauni Number 53, Khasra Numbers 7(0-9), 8(0-2), 9(0-6), 187/4(0-18) and 189/10(2-3), as per Jamabandi of the year 2013-14.”*

[5]. The deceased Krishan Mohan Bindra was also having movable properties in the form of investments/shares/mutual funds, which fall in other states outside of Punjab.

[6]. With the aforesaid background, the petitioner has filed the present petition for the issuance of letter of Administration/Probate of Will dated 11.08.2010.

[7]. Notice of motion was issued on 14.07.2016, inviting objections from respondent No.1-General Public, if any, by means of publication in the English newspaper namely 'The Tribune' and respondent No.2 was ordered to be served by means of ordinary process. Pursuant to the aforesaid notice, respondent No.2 appeared through counsel. However, no reply has been filed on her behalf. Notice to respondent No.1-General

Public was published in the newspaper 'The Tribune' as per orders passed by this Court. However, none appeared to raise any objection to the present petition for the issuance of letter of Administration/Probate in favour of the petitioner.

[8]. From the pleadings, following issues were framed by this Court:-

- “1. Whether the Will dated 11.08.2010 of Late Krishan Mohan Bindra has been validly executed as per provisions of the Indian Succession Act? OPP*
- 2. Whether probate is to be granted in favour of the petitioner, on the basis of the said Will of Krishan Mohan Bindra dated 11.08.2010? OPP*
- 3. Relief.”*

[9]. In support of his case, petitioner Deepak Raj Bindra stepped into the witness box as PW-1. He tendered his affidavit dated 25.10.2017 (Ex.PW-1/A) in his evidence. He also tendered documents viz. Ex.PW-1/1 i.e. photocopy of passport No.G3965625 of Krishan Mohan Bindra, Ex.PW-1/2 photocopy of death certificate of Krishan Mohan Bindra, Ex.PW-1/3 the original Will dated 11.08.2010 executed by Krishan Mohan Bindra, Ex.PW-1/4 copy of order dated 19.05.2016 vide which Will dated 04.01.2009 executed by Krishan Mohan Bindra was

probated in U.K., and Ex.PW-1/5 i.e. photocopy of affidavit dated 27.04.2015 of Uma Rani D/o Late Sh. Mulak Raj Bindra, Ex.PW-1/6 schedule of description of immovable assets of Krishan Mohan Bindra and Ex.PW1/7 description of movable assets of Krishan Mohan Bindra.

[10]. One of the attesting witness to the Will dated 11.08.2010 namely Hemant Puri was examined as PW-2, who tendered his affidavit dated 16.11.2017 (Ex.PW-2/A) in his evidence. After recording the statements of PW-1 and PW-2, the evidence was closed by the probate petitioner.

[11]. On the other hand, Smt. Uma Rani D/o Late Sh. Mulak Raj Bindra appeared as RW-1 and tendered her affidavit dated 28.10.2017 in her evidence. After tendering her statement, the evidence was closed.

[12]. I have heard the submissions made by learned counsel for the parties.

[13]. Since assets of the deceased are located in more than one State, therefore, in view of Section 273 of the Indian Succession Act, 1925, District Judge has no concurrent jurisdiction to adjudicate such type of claim of probate as involved in this case. Section 15 of CPC for sending the case to the Court of lowest grade competent to try it was found to be not

applicable. Therefore, the petitioner and respondent No.2 were called upon to lead their evidence.

[14]. Petitioner has duly brought on record the evidence to show that he is the executor and trustee of deceased Krishan Mohan Bindra to deal with all his estate in India. The immovable properties of the deceased Krishan Mohan Bindra are found to have been situated in the State of Punjab and movable properties in the form of investments/shares/mutual funds (Ex.PW-1/7) are found to be outside of Punjab.

[15]. Petitioner while appearing as PW-1 has duly proved the certified copies of documents i.e. Ex.P-1 to Ex.P-6 by way of their originals. Similarly Hemant Puri one of the attesting witness to the Will dated 11.08.2010, while appearing as PW-2 has proved the factum of execution of the Will in his presence by way of tendering his affidavit dated 16.11.2017.

[16]. General Public has been lawfully served by means of publication. No one has turned up to oppose the present petition for the issuance of letter of Administration/Probate in favour of the petitioner.

[17]. Respondent No.2-Smt. Uma Rani while appearing as RW-1 has tendered her affidavit 28.10.2017 (Ex.RW-1/A in her evidence. She consented to the relief sought by the petitioner

for the issuance of letter of Administration/Probate.

[18]. From the statements of the parties and the documents tendered by them in evidence, it transpires that the parties are not at issue. The respondent No.2, who is the real sister of deceased Krishan Mohan Bindra does not dispute the genuineness, legality and validity of the Will, rather she has supported the case of the petitioner by way of giving her consent (Ex.RW-1/A) for the issuance of letter of Administration/Probate. Objections were also invited by way of impleading General Public as respondent No.1, however, none has turned up to oppose the relief sought by the petitioner. Therefore, both the issues are answered in favour of the petitioner.

[19]. In view of above, this petition is allowed. Letter of Administration/Probate is ordered to be issued in favour of the petitioner in respect of immovable and movable properties left by deceased Krishan Mohan Bindra forming part of details as mentioned in the preceding para of the order.

December 21, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No