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

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Date of Decision: 13th February, 2017

+ **FAO 44/2016 and C.M. Appl. 2326/2016**

SHAM SUNDER BHALLA Appellant
Through: **Mr. Raman Kapur, Senior**
Advocate with Mr. F. Hasan,
Advocates

versus

STATE Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the judgment of the Trial Court whereby his petition for letters of administration with Will annexed has been dismissed.
2. The appellant is the son of late Indra Wati who expired on 18th June, 1995 leaving behind a Will dated 18th December, 1994 in favour of the appellant. The husband of late Indra Wati had predeceased her on 01st January, 1994. Late Indra Wati had only one child namely the appellant herein. The appellant filed the petition for grant of letters of administration with the Will annexed.
3. The appellant examined himself as a witness before the Trial Court. However, the appellant did not examine any witness to the Will and, therefore, the Trial Court dismissed the petition.

4. Learned senior counsel for the petitioner submits that vide order dated 23rd March, 2016, this Court allowed the appellant's application under Order XLI Rule 27 of the Code of Civil Procedure to lead additional evidence to examine the witnesses to the Will whereupon the appellant examined Dr. P.N. Sinha as PW-2 who deposed that late Indra Wati executed the Will, Ex.PW-2/1 in his presence and in the presence of late Dr. Girish Patel and both of them attested the Will in her presence as well as in the presence of each other. PW-2 identified the signatures of the deceased as well as the signatures of the other witness on the Will. PW-2 further deposed that the deceased was of sound disposing mind at the time of execution of the Will. The appellant also examined Nilesh Patel as PW-3, who identified the signatures of the other witness, Dr. Girish Patel on the Will.

5. This Court is satisfied that Ex.PW-2/1 is the last and true Will of late Indra Wati whereby the deceased has bequeathed property bearing No.F-1/16, Ansari Road, Darya Ganj, New Delhi in favour of the appellant. There is no impediment in the grant of letters of administration with the Will annexed to the appellant.

6. The appeal is allowed and the letters of administration with the Will are directed to be issued to the petitioner upon deposit of the requisition stamp papers.

7. The appellant being the sole beneficiary/legatee surviving heir of late Indra Wati, is exempted from submitting the Surety and Administration Bond.

8. Pending application is disposed of.

9. The Trial Court record be sent back forthwith.
10. *Dasti.*

FEBRUARY 13, 2017
rsk

J.R. MIDHA, J.

