

\$

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

Reserved on: 30th March, 2017

Pronounced on: 11th April, 2017

+ **TEST CASE 22/2016**

SMT. RAMA BHATIA & ANR. PETITIONERS

Through: Mr. Sanjiv Bahl, Mr.
Eklavya Bahl, Mr. Vinayak
Batta and Mr. Pawas
Aggarwal, Advocates

Versus

STATE

.... RESPONDENT

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

1. This petition presented under Section 276 of the Indian Succession Act, 1925 prays for grant of letters of administration annexed with Will dated 10.11.2009 of late Sh. Ajay Bhatia, son of Sh. Krishan Gopal Bhatia, particularly in relation to his estate in the nature of half share in the property situate at 31/24, Second Floor, West Patel Nagar, New Delhi.

2. The petitioners are Smt. Rama Bhatia and Master Vardan Bhatia, wife and minor son respectively of late Sh. Ajay Bhatia, the former having been appointed as guardian *at litem* (next friend) of

the latter, by order dated 21.12.2016, she being the mother and natural guardian.

3. As per the averments in the petition, the deceased was owner of half share in the above mentioned property of West Patel Nagar, the remaining half share being owned by the first petitioner herein, on the strength of sale deed (duly registered) executed on 25.08.2008 (Ex. PW1/1). Sh. Ajay Bhatia was son of Sh. Krishan Gopal Bhatia (father) and Smt. Kanta Bhatia (mother), the latter (mother) having pre-deceased him, she having passed away on 09.10.2016. Sh. Ajay Bhatia statedly died on 23.01.2014 and as per the petition, he left behind the two petitioners as the only legal heirs. It is the case of the petitioners that Sh. Ajay Bhatia had executed his last Will and testament on 10.11.2009 (Ex. PW1/4), the document indicating it to have been executed by the testator in the presence of two witnesses namely Sh. Vinod Relia (PW-2) and Sh. Balwant Singh Negi, both of whom apparently signed the said document as attesting witnesses at the same time and in presence of each other. As per the said Will, the testator Sh. Ajay Bhatia bequeathed his share in the subject property in favour of the first petitioner (his wife) passing on right, title and interest in her favour to hold the same exclusively and absolutely.

4. Citations were published in terms of order dated 16.03.2016. No objections have been filed pursuant to said publication. The petitioners upon being called upon to adduce evidence in support examined herself as PW-1 and then examined Sh. Vinod Relia (PW-2), the attesting witnesses to the Will.

5. Having heard the learned counsel for the petitioners and having gone through the evidence on record, this court is satisfied that Sh. Ajay Bhatia, the husband of the first petitioner and the father of the second petitioner died on 23.01.2014, this fact having been taken note of by the Registrar of Births and Deaths as per Death Certificate (Ex. PW1/2). His mother Smt. Kanta Bhatia had earlier died on 09.10.2006, such event having been similarly noted by the Registrar of Births and Deaths and confirmed by Death Certificate (Ex. PW1/3).

6. The attesting witness PW-2 has proved the Will (Ex. PW1/4), on the strength of his affidavit (Ex. PW2/A). A conjoint reading of his evidence and also that of PW-1 on the basis of her affidavit (Ex. PW1/A) clearly brings out that the mother of Sh. Ajay Bhatia having pre-deceased him, the two petitioners, they being the wife and minor son respectively are the only class-I legal heirs entitled to the inheritance / bequest under Sh. Ajay Bhatia. The attesting witness (PW-2) has further proved the execution of the Will by the deceased Sh. Ajay Bhatia in sound state of physical and mental health, in his presence and in the presence of the other attesting witness Sh. Balwant Singh Negi, each of whom had signed on the document in the presence of each other.

7. In the wake of directions of this court, the Executive Magistrate, Patel Nagar, of the Government of NCT of Delhi has undertaken the task of valuation of the subject property at West Patel Nagar and has submitted the valuation report under the cover of his letter dated 21.12.2016. Since the first petitioner is the

owner of the half share of the said property, the deceased being the owner of the remainder, the total valuation of the subject property having been assessed at Rs.35,24,976/-, the value of half share of the property has been indicated in the said report of the Executive Magistrate to be Rs.17,62,488/-.

8. In the above facts and circumstances, the petitioners have brought home their case for grant of letters of administration annexed with the Will dated 10.11.2009, the said document being Ex. PW1/4.

9. Since the first petitioner is herself the beneficiary under the Will, following the view taken consistently by the court, reference being made to the *order dated 07.08.2015 in Test Case 11/2011*, titled : *Rita Narang and Anr. Vs. The State and Ors.* as indeed *order dated 10.03.2017 on IA 2956/2017 in Test Case 81/2010, Neeraj Chandra and Anr. Vs. State and Ors.*, the condition of filing of sureties need not be imposed.

10. In above view, the letters of administration with Will dated 10.11.2009 (Ex. PW1/4) annexed therewith are granted in favour of the petitioners, subject to the requisite court fees / stamp duty being furnished in accord with the valuation report and upon furnishing administrative bond / personal bond by the first petitioner, in accordance with law, to the satisfaction of the Registrar General of this court.

11. The petition stands disposed of in above terms.

12. The matter shall be listed before the Registrar General for payment of requisite court fees in respect of the above mentioned

estate of the deceased and for acceptance of the bonds on
24.04.2017.

(R.K. GAUBA)
JUDGE

APRIL 11, 2017

yg

