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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ TEST.CAS. 73/2014
ANIL KAPUR

..... Petitioner

Through : Mr.Ajay Kapur, Senior Advocate
with Ms.Mahima Dang, Advocate.

versus

STATE & ORS

..... Respondent

Through : Mr.Ravi Chaturvedi, Ms.Renu Chauhan
Advocates for respondent No. 1.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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24.07.2017

This petition is filed for grant of probate of the Will dated 10.07.2008 executed by late Shri Santosh Kumar Kapur S/o Shri G. R. Kapur, a resident of N-208, Greater Kailash-I, New Delhi-110048 and he died on 01.11.2012. The Death certificate is annexed with the petition. Shri Santosh Kumar Kapur executed a registered Will dated 10.07.2008 in respect of the movable and immovable properties owned by him which included property N-208, Greater Kailash-I, New Delhi-110048. The other properties left by him are mentioned in his Will dated 10.07.2008. The petitioner has been appointed an executor of the said Will.

2. The petition avers that Shri Santosh Kumar Kapur had executed this Will dated 10.07.2008 in sound disposing mind and it is the last Will and testament of the deceased. The said Will was

executed in the presence of two attesting witnesses namely Mr. B.S. Malhotra and Shri Madhukar Davies who have filed their affidavits in support of this petition.

3. Late Shri Santosh Kumar Kapur was Hindu and he left behind the class-I legal heirs as stated in Para 9 of the petition. The beneficiaries of his estate are stated in Para 10 thereof. The market value of the estate left by him at the time of filing of the petition was ₹ 8,00,24,639, per valuation report filed. Shri Santosh Kumar Kapur at the time of his death was ordinarily residing at the address given above.

4. The petitioner has examined three witnesses in support of his petition. *PW-1* the petitioner himself has proved the contents of the petition by his affidavit *Ex.PW1/A* and has relied upon the documents *Ex.PW1/1* to *Ex.PW1/6*.

Ex.PW1/1 is the death certificate of Santosh Kumar Kapur; *PW1/2* is the Will dated 10.07.2008- duly registered with the office of Sub Registrar V, New Delhi at No. 3638 in Additional Book No. 3, Volume No. 1614 on pages 150-152 on 11.07.2008. *Ex.PW1/3* is the photocopy of PAN Card issued in favour of the petitioner; *Ex.PW1/4* is the copy of Aadhar Card and *Ex.PW1/6* is the copy of his Driving License.

5. PW2 and PW3 are the attesting witnesses who have proved their affidavit-*Ex.PW2/A* and *Ex.PW3/A* respectively.

Both the attesting witnesses have deposed that they were present and saw Shri Santosh Kumar Kapur putting his signatures on the Will dated 10.07.2008 in their presence and that he was having

full knowledge and understanding of the content of the Will. He read over and understood the contents and put his signatures of the Will in their presence. Both deposed that the late Shri Santosh Kumar Kapur was the first to sign on the said Will and then PW3 and lastly PW2 put their signatures on the said Will as attesting witnesses in the presence of late Shri Santosh Kumar Kapur and in the presence of each other.

6. The respondent No. 2, 3, 6, 7 and 8 have already filed their No Objections to the grant of the probate and whereas the respondents No. 4 and 5 have chosen not to appear.

7. In the circumstances where the attesting witnesses have deposed in favour of the execution of the Will and where the legal heirs has also given their no objections in appointing the petitioner as an executor of the Will dated 10.07.2008, there is no impediment as to why the probate be not granted to petitioner.

8. In the result, the probate of Will dated 10.07.2008 (*Ex. PW1/2*) executed by late Shri Santosh Kumar Kapur in respect of the properties mentioned therein, is issued in favour of the petitioner & he is appointed as an Executor of the Will dated 10.07.2008. The petitioner to furnish the administrative bond with one surety to the satisfaction of the Registrar General of this Court and submit the court fees in the registry.

No order as to costs.

YOGESH KHANNA, J

JULY 24, 2017

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