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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 14th July, 2017
Pronounced on: 17th July, 2017

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TEST.CAS. 107/2014

HARMALA SINGH MALIK & ANR

..... Petitioners

Through : Ms.Shobhana Takiar, Adv.

versus

STATE & ORS

..... Respondents

Through : None

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. This is a petition under Section 276/278 of the Indian Succession Act, 1925 for grant of probate of Will dated 6th April, 2013 of Late Ms.Harsimran Malik. It is alleged that Smt.Harsimran Malik was Hindu governed by Mitakshara School of Hindu Law and at the time of her death was domiciled in India. She had her residence at C-103, Maharani Bagh, 2nd Floor, New Delhi. She died on 23rd February, 2014. Before her death she made her last Will and testament dated 6th April, 2013 which was got registered on 9th April, 2013.

2. She was unmarried and left behind her brother namely Harmala Singh Malik and her nieces viz., the petitioner No.2; and respondents No.2, 3 and 4.

3. All the above legal heirs are the beneficiary of the Will

dated 6th April, 2013 and have no objection to the grant of probate. The deceased was an owner in occupation of the immoveable property – C-103, Maharani Bagh, Second Floor, New Delhi.

4. The deceased was a resident of Delhi and was residing in a property No.C-103, Maharani Bagh, Second Floor, New Delhi. The petitioners have prayed that the probate be granted in the name of the executor(s) of the Will dated 6th April, 2016 of the deceased in respect of the above property.

5. The petitioner No.2 herein has examined herself as PW1 and in her affidavit Ex.PW1/A had reiterated the contents of the petition stating inter alia that the deceased was an owner in occupation of the premises and that she died on 23rd February, 2014. The death certificate of the deceased is proved as Ex.PW1/1; her Will dated 6th April, 2013 is proved as Ex.PW1/2; the declaration of Smt.Brinda Singh (Bhagat) an attesting witness is proved as Ex.PW1/3; the consent affidavits of the other legal heirs viz., respondent Nos.2, 3 and 4 have also been proved as Ex.PW1/4, Ex.PW1/5 and Ex.PW1/6 respectively. PW1 also proved the citation of this case in the 'Statesman' as Ex.PW1/7.

6. The petitioner also examined Smt.Brinda Singh (Bhagat) attesting witness to the Will as PW2 and she proved her affidavit as Ex.PW2/A wherein she deposed that she along with other attesting witnesses was present at the time when the testator affixed her left thumb impression on her last Will Ex.PW1/2 and

that she also put her signatures in the presence of the testator and other attesting witness. She also deposed that the deceased was in good health and of sound mind at the time of execution of her last Will and Testament - Ex.PW1/2.

7. Since the legal heirs of the deceased had given their consent in the form of affidavits Ex.PW1/4, Ex.PW1/5 and Ex.PW1/6 in appointment of the petitioners to be the joint executors of the Will so that the legacy may be distributed in the manner sketched in the Will Ex.PW1/2 and also when the attesting witness PW2 had also supported the execution of the Will, there is no impediment in grant of probate to the petitioners in respect of Will dated 6th April, 2013 – Ex.PW1/2, executed by the deceased being her last Will and testament in respect of property bearing No.C-103, Maharani Bagh, Second Floor, New Delhi.

8. In the result the probate is issued in favour of the petitioners in respect of Will dated 6th April, 2013 Ex.PW1/2 executed by Late Ms.Harsimran Malik in respect of the said property. The petitioners to furnish the administrative bond with two sureties to the satisfaction of the Registrar General of this Court and court fees in the registry.

9. No order as to costs.

YOGESH KHANNA, J

JULY 17, 2017
VLD