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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 100/2014**
SUBHASH CHANDRA BANERJI

..... Petitioner

Through : Mr.D.Moitra, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Through : Mr.Radhesh Makrandi, Advocate for
respondents No.2 to 5.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **28.05.2018**

IA No.7498/2018

1. On 24.08.2017 the petition under Section 276 of the Indian Succession Act for probate of Will dated 19.11.2007 of late Sh.Akshay Kumar Banerji was allowed by this Court subject to the valuation of the property, payment of requisite court fees according to valuation and furnishing of Administration Bond by the petitioner for the benefit of ultimate beneficiary i.e. both sons of applicant namely Neelabh Banerjee and Trishit Banerjee.

2. The applicant/petitioner has stated to be complied with all the formalities except furnishing the surety bond. The applicant/petitioner stated to be retired person and could not arrange the surety bond due to financial hardship. Hence, this application has been filed for exemption for filing the sureties. The respondents No.2 to 5 appearing with their learned counsel today on advance notice have no objection if this application is allowed.

3. Though the Court fee applicable to the probate petition has been paid reliance is placed on *Rajesh Sinha & Ors. Vs. State* in Test Case 84/2011 decided on 06.04.2015 wherein the coordinate Bench of this Court has observed as under:

“22. It would be seen that none of the duties of the Administrator as noticed in the preceding para-16 are required to be performed by a person, who is the sole beneficiary under the Will. It appears to me that the requirement of furnishing of administration bond or surety bond for administration of an estate belonging to oneself is wholly redundant and could not have been intended to be covered by the statutory provision namely, Section 291 of the Act.”

4. And in *Rita Narang & Anr vs. The State and Ors.* in Test Case No.11/2011 decided on 07.08.2015.

“8. In the present case respondent No.2 and 3 did not raise any objection to the grant of letter of administration pertaining to Will. In view of the judgment referred above, this Court is of the view that the condition of filing Administration and Security bond for the entire value of the estate of the deceased, assessed at ₹ 22,22,000/- is to be recalled as raised by Registry by allowing the prayer of the present application. Ordered accordingly. Instead the petitioners are permitted to furnish a personal bond before the Registrar General within four weeks.”

5. In the circumstances the application is allowed. The condition for filing sureties per order dated 24.08.2017 is dispensed with. The applicant is permitted to furnish a personal bond before the Registrar General of this Court within four weeks from today.

6. The application stands disposed of accordingly.

YOGESH KHANNA, J

MAY 28, 2018/M

TEST.CAS. 100/2014

Page 2 of 2