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

+ TEST.CAS. 85/2015

ANIL KAPOOR

..... Petitioner

Through: Mohd. Amanullah, Advocate.

versus

STATE

..... Respondent

Through: None.

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Date of Decision : 17th July 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J (Oral):

1. Present petition has been filed by the petitioner under Section 278 read with Sections 228 and 229 of the Indian Succession Act, 1925, for grant of Letter of Administration in respect of the movable and immovable properties bequeathed by late Sh.Ram Prakash Kapoor in his last and final Will dated 09th July, 1994.

2. It is stated that the petitioner is the son of Sh.Ram Prakash Kapoor who died at New Delhi on 22nd November, 2001 leaving behind the petitioner as the only legal heir. It is further stated that his wife late Mrs.Krishna Kapoor predeceased him on 03rd October, 1987 and his daughters also predeceased him on 14th March, 1980 and 27th January, 1988

without leaving behind any legal heirs.

3. In the petition, it has been averred that late Sh.Ram Prakash Kapoor had executed a Will dated 09th July, 1994 out of his own free will in favour of the petitioner bequeathing all the movable and immovable properties along with the bank accounts, stocks, bonds and or any other personal effects. The Will dated 09th July, 1994 executed by late Sh. Ram Prakash Kapoor is reproduced hereinbelow:-

“I, Ram Parkash Kapoor, presently residing at 30 Gazebo Lane, (Suffolk County) Holtsville, New York; United States of America; hereby, nominate/assign by son Anil Kapoor, also presently residing at 30 Gazebo Lave, Holtsville, New York, United States of America; to be the legal heir to my estate in INDIA or in AMERICA.

My son Anil Kapoor, shall inherit, my movable as well as immovable property/s. He shall also inherit my Bank accounts, Stocks, Bonds and or any other personal effects; after my death. He shall buy, sell, withdraw and or transfer any of my above mentioned property/s.

My son Anil Kappoor shall also inherit any and all personal movable/immovable property of my late wife Krishna Devi Kapoor that was left to me by my late wife.

THERE ARE NO OTHER HEIRS TO MY ESTATE OTHER THAN MY SON- ANIL KAPOOR.

I have written this free Will in order to protect the best interest of my family and I am fully responsible for the consequences of this free Will.

Sd/-
RAM PRAKASH KAPOOR

This Will is signed on 9th day of July, 1994.

Witness by

Sd/-

*KAPTAN SINGH RATHIE
S/o Sh. Chander Singh Rathie
R/o B3/186, Janak Puri,
New Delhi-110058*

Sd/-

*Vijay Verma
D/o Sri Raghubir Singh Verma
30, Gazebo Lane,
Holtsville,
New York-11742
U.S.A."*

4. Notice was issued on the present petition on 08th October, 2015. Citation was also directed to be issued, which came to be published in the English edition of the daily newspaper 'The Statesman' and Hindi edition of daily newspaper 'Rashtriya Sahara'. No objections have been received to the Will after publication of the citation.
5. The petitioner has adduced evidence of Ms. Vijay Verma and himself.
6. The petitioner has produced the original Death Certificate of Sh. Ram Prakash Kapoor as Ex.PW1/1.
7. It has been stated by Mr. Vijay Verma in his affidavit that the testator was in sound disposing mind at the time of execution of the Will, which was duly executed by him in his presence and in the presence of another witness. The relevant portion of the affidavit filed by Mr. Vijay Verma is reproduced hereinbelow:-

"1. That I am one of the attesting witness on the will dated 09.07.1994, which was executed by late Ram Prakash Kapoor.

2. *I further state that the said will dated 09.07.1994 was signed by the testator, Late Ram Prakash Kapoor and the other witness Kaptan Singh Rathie R/o B3/186, Janak Puri, New Delhi-58, in my presece on the same date.*
3. *I say that all three of us – Ram Prakash Kapoor, Kaptan Singh Rathie and myself signed in presence of each other.*
4. *I say that Ram Prakash Kapoor was in sound mind at the time of execution of the said will.*
5. *The said Will bears my signature.*
6. *The present affidavit has been executed by me without any undue pressure or coercion.”*
8. In view of the above, this Court is satisfied that the petitioner has succeeded in proving that the deceased Sh.Ram Prakash Kapoor had executed the Will dated 09th July, 1994 and the said Will was his last Will and testament.
9. Consequently, the present petition is allowed.
10. The letters of administration with a copy of the Will dated 09th July, 1994 annexed thereto is granted in favour of the petitioner, subject to his furnishing the requisite Court fee in terms of the valuation report and submitting an administrative bond with one surety in accordance with law.

MANMOHAN, J

JULY 17, 2017
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