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

+ **FAO 338/2011, CM APPL. 14187/2011**

VIJAY KUMAR PURI & ANR Appellants

Through: Mr. Shiv Sagar Tiwari, Advocate.

versus

NEELAM PURI & ORS Respondents

Through: Mr. R.L. Kohli, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **20.03.2018**

This appeal impugns the order dated 29.03.2011 granting probate of the Will of Mr. Rajinder Nath Puri executed on 17.09.2004, propounded by the respondents. The Will was registered. The impugned order notes that the appellants (objectors) were unable to show that the testator, Mr. Rajinder Nath Puri, was suffering from any mental or physical ailment or that he was not capable, mentally or physically, to execute the Will or to visit the Sub-Registrar's office for registration of the Will. The Will had his photograph along with photographs of the attesting witnesses. It was duly proven.

The Court also relied upon the judgment of this Court in *Anita Khosla vs State 2010 IX AD (Delhi) 59* which held that in a petition for grant of probate the court is not concerned with the title of the testator with respect to the property bequeathed by him/ her; what the Court has to see is whether the Will was duly executed and whether its execution has been proved in accordance with law. It also referred to the judgments in: (i) *Shama Sethi*

vs State & Ors. 2010 III AD (Delhi) 298; (ii) B.B. Pay Master vs Mr. Baurawa Sangappa Kodappatti & Ors. AIR 2005 Bombay 48; and (iii) C.C. Kuruvilla vs Sosamma & Ors. AIR 2000 Kerala 241.

In view of the aforesaid, in so far as the present appeal is concerned, no substantive questions of law arise. The Court finds no reason to interfere with the impugned order.

The appellant, however, submits that by way of the probate the respondents seek to appropriate portions of the property which are occupied by them. It is the appellant's case that portions of the property occupied by them would have to be divided as per the Hindu Succession Act, 1925 or such law as may be applicable. The learned counsel for the respondents submits that the respondents have not claimed anything beyond, what is mentioned in the Will and the portion occupied by the appellants will be subject to the law of succession applicable to the parties.

In view of the aforesaid, no substantive question of law arises. The appeal is dismissed.

NAJMI WAZIRI, J

MARCH 20, 2018

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