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

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Date of decision: 01.10.2018

+ TEST.CAS. 19/2017

MR. MARK DOUGLAS HOLFORD

..... Petitioner

Through Mr.Abhimanyu Mahajan, Ms.Anubha
Goel and Mr.Sarthak Mehrotra, Advs.

versus

STATE

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.(ORAL)

1. This petition is filed under section 228 read with section 276 of the Indian Succession Act, 1925 for grant of Letters of Administration in respect of the Will dated 20.11.1992 of Late Ms.Maria Geeta Lisa Therese Anastasia Luzia Alvares Meneses.

2. It is pleaded that the testator has died on 06.02.2016. A copy of the death certificate has been filed along with the present petition. He also states that her last Will and Testament dated 20.11.1992 has been proved and registered in the High Court of Justice, Family Division, Leeds District Probate Registry on 15.06.2016. It is stated that the testator was the resident of 503, Howard House, Dolphin Square, London, SW1V 3PG, England, U.K. and prior to her demise, she had duly executed her last Will and Testament dated 20.11.1992. The petitioner herein Mr.Mark Douglas Holford and Mr.Grahame Francis Eales, Solicitor were appointed as the

Executors and Trustees of the said Will. It is stated that as per the said Will, in view of the death of the mother of the testator, the trustee would sell her properties and the proceeds from the sale of her properties, after deduction of her debts, funeral and testamentary expenses would go for charitable purposes of the Maria Nisha Jeanne Alvares Meneses Scholarship at St.Mary's Convent, Cambridge. The said Will further provides that in the event no disposition of estate is possible to Maria Nisha Jeanne Alvares Meneses Scholarship at St. Mary's Convent, Cambridge, then her Trustees shall apply the same for charitable purposes of the Models for Rural Development, c/o Jean Gimpel r/o Flat 5,11 Chelsea Embankment London SW3 4 LE.

3. Mr.Grahame Francis Eales one of the Trustees and executor of the Will passed away on 04.05.2004. Hence, the petitioner herein Mr.Mark Douglas Holford is the sole executor and Trustee of the said Will.

4. This court on 16.04.2018 has directed the petitioner to file an affidavit to prove the certified copy of the Will of the deceased testator dated 20.11.1992. Needful has been done by filing affidavit of the petitioner dated 26.06.2018.

5. Today, the learned counsel for the petitioner pleads that under section 228 of the Indian Succession Act, 1925 once the Will has been proved and registered in the competent court of jurisdiction, i.e. in the High Court of Justice, Family Division, Leeds District Probate Registry, the Letters of Administration can be granted. He relies upon the judgment of this court in the case of *Narain Malik v. State*, 245 (2017) DLT 423.

6. Section 228 of the Indian Succession Act, 1925, reads as follows:

“228. Administration, with copy annexed, of authenticated copy of Will proved abroad.—When a Will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of [India], and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.”

7. This court in *Narain Malik v. State*(supra), held as follows:

“8. The Will has already been proved in the Foreign Court of competent jurisdiction and the only requirement stipulated under section 228 of the Act for seeking letter of administration is that the petitioner has to file authenticated copy of the Will dated 12.3.2008. In *Dharamvir Sharma v. State & Ors.*, 148 (2008) DLT 149, this court held as follows:

“7. The object of section 228 is to dispense with the need to produce the original will owing to its deposit in some other Court. The order under this provision is not like section 276; however, its ancillary to a grant made by a competent court. Before making an order on such application, the court has satisfy itself that the copy produced before it answers the description in section 228.”

8. It is manifest from the facts and the records that the petitioner has placed on record a properly authenticated copy of Will dated 20.11.1992 of Ms. Maria Geeta Lisa Therese Anastasia Luzia Alvares Meneses, which has been proved and registered in the Foreign Court of competent jurisdiction, i.e. in the High Court of Justice, Family Division, Leeds District Probate Registry, United Kingdom.

9. Accordingly, the present petition is allowed and the petitioner is hereby granted Letters of Administration in respect of the property bearing Flat No.20, Dakshineshwar, 10 Hailey Road, New Delhi along with the

moveables lying therein subject to the petitioner paying the requisite court fees on the valuation as done by the SDM, Chanakyapuri, New Delhi and upon furnishing administration and surety bond. The Registry will issue Letter of Administration on his depositing the stamp duty as per law.

JAYANT NATH, J.

OCTOBER 01, 2018/v

