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

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Date of Decision: 07.12.2018

+ TEST. CAS. 34/2018

SH. ASHOK KUMAR AGGARWAL & ORS Petitioner

Through Mr., Anuj Arora, Adv.

Versus

STATE & ORS

..... Respondent

Through Ms. Seema Singh, Adv. for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This petition is filed under section 278 of the Indian Succession Act, 1925 for grant of Letter of Administration (The petitioner in the title wrongly seeks a succession certificate) with respect to the securities, as per para 4 of the petition, left behind by the deceased Late Sh. Nathu Ram Aggarwal (*hereinafter referred to as "the deceased"*) equally in favour of the Petitioners and Respondent No. 2 and 3.

2. It has been averred in the petition that the petitioners and respondent no. 2 and 3 are the children and Class I legal heirs of the deceased. It is stated that the deceased expired on 10.08.2014 and is only survived by his children. Surviving Members Certificate dated 20.02.2015 issued by the office of District Magistrate (West) Delhi is annexed to the said petition. The deceased during his lifetime had two wives, namely, Late Smt. Pushpavati Aggarwal and Late Smt. Ram Devi Aggarwal both pre-deceased him. It is

further averred that there are no other surviving Class I legal heirs except the petitioners and respondent no. 2 and 3.

3. It is pleaded in the petition that the deceased had purchased certain securities during his lifetime which are stated below:

- i. Fixed Deposit in the sum of Rs.85,098/- on 23.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- ii. Fixed Deposit a sum of Rs.2,43,180/- on 23.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- iii. Fixed Deposit in the sum of Rs. 1,54,51,026/- on 01.04.2018 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- iv. Fixed Deposit in the sum of Rs.3,28,290/- on 23.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- v. Fixed Deposit in the sum of Rs.26,12,135/- on 24.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- vi. Fixed Deposit in the sum of Rs. 1,05,650/- on 23.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- vii. Fixed Deposit in the sum of Rs.5,24,734/- on 23.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- viii. Fixed Deposit in the sum of Rs.8,35,875/- on 24.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- ix. Fixed Deposit in the sum of Rs.44,27,469/- on 24.12.2017 State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- x. Fixed Deposit in the sum of Rs. 18,89,067/- on 31.03.2017 with State Bank of Patiala, now State Bank of India, C-3, Community Centre, Janakpuri, New Delhi-110058.
- xi. Assets/Articles lying in locker No.280 with SBI Moti Nagar Branch, New Delhi-110015 in the name of late Shri Nathu Ram Aggarwal.

xii. Demat Account with IDBI Bank, Kirti Nagar, Branch having Client ID No.13837944 and D P ID No.1N300450 having holding value of Rs.28,86,629/- on 18.05.2018.

4. Hence, this petition is filed praying to grant letter of administration of the aforementioned securities, being in the name of the deceased to be equally distributed in favour of petitioners and respondent no. 2 and 3.

5. This court on 01.06.2018 issued notice to the respondents through speed post, ordinary process and publication. Notices were duly served to the respondents. The learned counsel for respondent no. 2 and 3 entered appearance. None has appeared on behalf of respondent No.1.

6. Learned counsel for respondent no. 2 and 3 stated that they have filed affidavits dated 13.07.2018 and 03.08.2018 whereby, respondent no. 2 and 3 have stated that they are permanent residents of USA and have no objection to the instant petition.

7. This court on 12.09.2018 appointed a local commissioner to prepare the inventory of the articles lying in the locker of the deceased (i.e. Entry 11 of the aforementioned securities). A perusal of the report of the local commissioner shows that she inspected the said locker in front of the parties on 20.09.2018 and found it to be empty.

8. I have heard learned counsel for the parties and have perused the documents annexed to this petition. As there are no contesting respondents in the present petition and respondent no. 2 and 3 have furnished their NOCs and supported the case of the petitioners, I see no impediment in granting the letter of administration with respect to the aforementioned securities of the deceased in favour of petitioners and respondent no. 2 and 3 equally.

9. In view of the aforementioned facts and documents, the present petition is allowed and the Letters of Administration is issued in favour of

the petitioners and respondent no. 2 and 3 with respect to the aforementioned securities of the deceased, Late Sh. Nathu Ram Aggarwal, subject to the petitioners filing the requisite Court fee and execution of administration and surety bond in accordance with law.

10. No orders as to cost. Petition is disposed off in above terms. All pending applications, if any, also stands disposed of.

JAYANT NATH, J.

DECEMBER 7, 2018/ss

