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IN THE HIGH COURT OF DELHI AT NEW DELHI

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**Reserved on: 27th August, 2018
Pronounced on: 6th September, 2018**

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TEST.CAS. 63/2016 IA No.12887/2017

AMARJOT SINGH

..... Petitioner

Through : Mr. Nishant Singla, Adv.

versus

THE STATE OF NCT OF DELHI

..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. Petitioner, the son of the deceased has filed this petition under Section 276 of the Indian Succession Act, 1925 for grant of probate of the registered Will dated 14.06.2007 executed by late Shri Tarlochan Singh – father of the petitioner.

2. The petitioner was appointed as an executor of the registered Will dated 14.06.2007. The testator expired in New Delhi on 03.11.2015. The said Will is witnessed by Mr. R.S. Kohli and Mr. Harjeet Singh Malik and is duly registered in the office of the Sub-Registrar VII, Vikas Sadan, New Delhi.

3. As per averments made in the para No.9 of the petition, there are six legal heirs of the deceased including the petitioner

herein and all of them have filed their affidavits consenting grant of probate in favour of the petitioner.

4. Upon filing of this petition, notice was issued to the Chief Revenue Controlling Authority to file the valuation report in respect of the immovable properties as detailed in the Will. The said valuation report has since been filed on record.

5. Vide order dated 22.02.2018 following issues were framed:-

- 1) Whether the Will dated 14.06.2007 is the last legal and validly executed Will of late Sardar Tarlochan Singh?
OPP
- 2) Relief.

Petitioner was directed to file the evidence by way of affidavit.

6. In this case, three witness have been produced by the petitioner to prove his case.

7. PW1 Smt.Sarita Gautam, Assistant Section Officer from the Sub Registrar – VII Office, Vikas Sadan, New Delhi was summoned and examined, who produced the original record pertaining to Will dated 14.06.2007 and proved the certified copy thereof as *Ex.PW1/A* after seeing such original record.

8. PW2 Sh.R.S.Kohli, - an attesting witness of the Will has filed his affidavit *Ex.PW2/X* and proved *Ex.PW2/I* - the death certificate of testator and identified his signatures as an attesting witness on the Will *Ex.PW1/A*.

Ex.PW2/4 is an affidavit of another attesting witness of the Will namely Shri Harjeet Singh Malik; and *Ex.PW2/5* is an affidavit of the witness (PW2) himself.

9. PW3 Shri Amarjot Singh – petitioner himself has proved his affidavit *Ex.PW3/X* and also proved *Ex.PW2/1* viz. the death certificate of his father / testator of the Will and relied upon Will *Ex.PW1/A*. He also proved document *Ex.PW2/4* viz an affidavit of another witness namely Shri Harjeet Singh Malik; and *Ex.PW2/5* viz the affidavit of PW2 – both filed in support of the petition.

10. In the circumstances, where the other legal heirs of the testator have already filed their affidavits of '*No Objection*' for grant of probate in favour of petitioner in respect of the estate left behind by the petitioner; there being no challenge either to the petition or to the testimonies so adduced on behalf of the petitioner, hence the Will dated 14.06.2007 is held to be validly executed Will of the deceased and there exist no impediment in grant of letter of probate in favour of petitioner in respect of the registered Will dated 14.06.2007, qua the properties of deceased mentioned therein.

11. In view of above, the issue *No.1* is decided in favour of the petitioner.

12. Consequently, the probate of Will dated 14.06.2007 qua estate of deceased, per Annexure-A, is granted in favour of the

petitioner and he is appointed as an executor to administrate the estate of the deceased as per his wishes contained in the Will.

13. Registry to issue the probate, as per valuation so received and available on record from the concerned SDM and upon paying the requisite stamp duty etc and also upon furnishing administration bond and a surety (bond) by the petitioner.

14. In view of the above, the petition stands disposed of. The pending application also stands disposed of.

15. No order as to cost.

YOGESH KHANNA, J

SEPTEMBER 06, 2018

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