

\$~26

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

Date of Decision: 28th May, 2019

+ **TEST.CAS. 15/2019**

SHRI SWADESH PAL ARORA Petitioner
Through: Mr. Rohit Gandhi, Advocate.
(M:9818610321)
versus

STATE Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

I.A. 2495/2019 (exemption)

1. Allowed, subject to all just exceptions. I.A. is disposed of.

TEST.CAS. 15/2019

2. Present petition for grant of letters of administration has been filed by Shri Swadesh Pal Arora in respect of his brother Late Shri Rajinder Pal Arora's property bearing No.B-6, Gujrawala Town Part-I, Delhi-110009 (also known as Plot No.6, Block-B, Part-I, Gujranwala Cooperative Housing Building Society Limited) measuring 435 sq. yds (*hereinafter, 'suit property'*). It is the case of the Petitioner that his deceased brother was unmarried and had died intestate. He submits that father and mother of the Petitioner died in 1961 and 1984 respectively. The Petitioner had two more brothers namely Shri Satya Pal Arora and Mr. Brat Pal Arora and one sister namely Smt. Santosh Narula. All three siblings predeceased Mr. Rajinder Pal Arora. There is no surviving class-I heir of Late Shri Rajinder Pal Arora.

The Petitioner is the only class-II heir as per schedule-II under the Hindu Succession Act, 1956. Accordingly, it is prayed that the letters of administration be granted in his favour.

3. The petition was listed on 18th February, 2019 on which date notice was issued to the State and citations were directed to be published in the 'Statesman' and 'Nav Bharat Times'. The concerned SDM was also directed to submit a valuation report for the suit property. The publication, as directed, has been affected and there are no objections, which have been received. The SDM has also submitted the valuation report as per the circle rate.

4. The Petitioner has filed his affidavit in evidence and has also produced one Shri Sardar Puran Singh, who is a friend of the deceased Shri Rajinder Pal Arora. The Petitioner, who appeared as PW-1, has confirmed the above-mentioned facts along with all the dates. The following documents have also been exhibited by PW-1:

- a) **Exhibit PW1/1** – death certificate of Shri Rajendra Pal Arora;
- b) **Exhibit PW1/2** – death certificate of Shri Satya Pal;
- c) **Exhibit PW1/3** – death certificate of Shri Brat Pal Arora;
- d) **Exhibit PW1/4** – surviving member certificate in favour of the Petitioner;
- e) **Exhibit PW1/5** – Perpetual sub-lease dated 12th November, 1970, in respect of the suit property, in favour of Shri Rajendra Pal Arora;
- f) **Exhibit PW1/6 (colly)** – Property Tax Receipt issued by the MCD in respect of the suit property, in favour of the Petitioner;
- g) **Exhibit PW1/7 (colly)** – Electricity bills in the name of the Petitioner qua the suit property;

h) **Exhibit PW1/8 (colly)** – Water bill in the name of the Petitioner in respect of the suit property.

i) **Exhibit PW1/9** – Copy of the Aadhaar Card of the Petitioner

5. PW-2 – Shri Sardar Puran Singh has also appeared before the Court and stated that he was a close friend of the deceased and his family was also known to him. He confirmed that Late Shri Rajinder Pal Arora was not married and had no issues. The facts relating to demise of three siblings of the deceased, has also been mentioned by PW-2. He confirmed that the Petitioner - Shri Swadesh Pal Arora is the only surviving heir of the deceased and in fact, he had performed the last rites of the deceased.

6. Ld. counsel for the Petitioner submits that the Petitioner is in possession of the property in question. He relies on various documents evidencing the payment of property tax to the North Delhi Municipal Corporation and electricity bills, all of which, clearly, show that the Petitioner has been in possession of this property.

7. On the basis of the pleadings and documents on record, the Court is satisfied that the Petitioner is the only surviving legal heir of the deceased. Accordingly, letters of administration are granted in favour of the Petitioner in respect of the property bearing No. B-6, Gujrawala Town Part-I, Delhi-110009 (also known as Plot No.6, Block-B, Part-I, Gujranwala Cooperative Housing Building Society Limited) measuring 435 sq. yds. Since the Petitioner is the only surviving legal heir of the deceased, exemption is granted from filing the administration and surety bonds, in terms of the judgment in *Aparna Sur v. State [Test Case 113/2014 decision dated 1st August, 2018]*, which followed the decision in *Sanjeev Kumar Juneja & Ors. v. State 234 (2016) DLT 1*, as also *Richa Pardeshi v. State 2012 (131)*

DRJ 92 and Rajesh Sondhi & Anr. v. State and Anr. 232 (2016) DLT 27.

8. The valuation, as given by the Petitioner, is higher than the one given by the SDM on circle rates. Valuation given by the Petitioner is, accordingly, accepted and shall be treated as the value of the suit property. Stamp duty be deposited, accordingly, within eight weeks and upon deposit thereof the letters of administration be issued.

9. The petition is disposed of in the above terms.

**PRATHIBA M. SINGH
JUDGE**

MAY 28, 2019/dk

