

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

% Date of decision: 10th December, 2019

+ TEST.CAS. 64/2019 & IAs. 11492/2019 and 11493/2019

MR. SUNIL SETHI

..... Petitioner

Through: Ms. Manali Singhal, Ms. Shreya
Singhal, Mr. Deepak Rawal and
Ms. Aanchal Kapoor, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Kushagra Pandey, Panel Counsel
for GNCTD.
Ms. Ruchira Gupta and Mr. Anurag
Sharma, Advs. for State of Goa.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

1. The present petition has been filed by the petitioner with the following prayers:-

*In the facts and circumstances, it is most respectfully
prayed that this Hon'ble Court may kindly be pleased to:*

A. *Grant Letters of Administration in favor of the
Petitioner, for the Estate both moveable and immovable
of the Deceased (Late Mr. Sanjeev Sethi aka Mr Sanjeev
Sethi) as specified in Schedule-B.*

B. Pass any other or further orders, as this Hon'ble Court may deem fit and proper.

2. It is the case of the petitioner that his brother Sanjeve Sethi (hereinafter referred to as “late brother”) had passed away on April 25, 2019 at Galaxy Hospital, Xelpem Duler, Mapusa, Goa from cancer. His late brother’s permanent place of abode was at New Delhi at the family home G-9, South Extension, Part-II, New Delhi-110049. A copy of the death certificate has been exhibited as Ex.PW1/1. That his late brother was unmarried and died intestate. His late brother had no Class-I legal heir as specified in Schedule to the Hindu Succession Act, 1956. It is the petitioner’s case that his parents died much prior to the death of his late brother. It is also stated that he was the only sibling of his late brother and only surviving legal Class-II heir depicted in Schedule A, exhibited as Ex.PW1/5.

3. It is his case that his late father Jagjit Rai Sethi passed away on August 12, 1984 (Ex. PW1/6). Even his mother Pushpa Sethi passed away on August 17, 2004 (Ex. PW1/7). His mother left behind a Will dated July 27, 2001 (Ex. PW1/8) wherein her entire estate was bequeathed between the petitioner, his late brother and petitioner’s daughter as specifically nominated by her in the records. The bonds and shares which have no nominee specified was bequeathed by her in favour of the petitioner and his late brother. His mother further desired that the moveable valuable/articles lying at the Ground Floor of her residential house G-9, South Extension, Part II, New Delhi to be equally divided by her sons and daughter in

law. It is the case of the petitioner that his late brother, on November 16, 2016, with an intention to get the family house at G-9, South Extension Part II, New Delhi redeveloped/reconstructed, executed a Special Power of Attorney in favor of the petitioner, exhibited as Ex. PW1/9. Accordingly, the petitioner entered into a collaboration agreement (Ex. PW1/10) with a builder M/s Shruti & Siddharth Constructions Pvt. Limited for getting their house at G-9, South Extension, Part II, New Delhi redeveloped / reconstructed on the terms and conditions specified in the aforesaid agreement. The same is presently under construction and the allocation of the property is as under:-

OWNERSHIP OF MR. SUNIL SETHI IN G-9, SOUTH EXTENSION-II, NEW DELHI-110049

1	<i>Entire First Floor</i>
2	<i>Half of Third Floor with Specified Terrace Area</i>
3	<i>Half Basement Floor as Specified</i>
4	<i>Separate Driveway with Independent Gate as Specified</i>
5	<i>Use of the Common Areas, Facilities and Services</i>
6	<i>50% Ownership of the Staircase above the First Floor Landing</i>
7	<i>Proportionate 38.75% undivided, indivisible, and impartible ownership rights in the plot of land measuring 600 sq. Yds.</i>
8	<i>50% of additional / increased FAR available upon sanction or in the future</i>

**OWNERSHIP OF MR. SANJEVE SETHI IN G-9, SOUTH
EXTENSION-II, NEW DELHI-110049**

1	<i>Entire Second Floor</i>
2	<i>Half of Third Floor with Specified Terrace Area</i>
3	<i>Half Basement Floor as Specified</i>
4	<i>Separate Driveway with Independent Gate as Specified</i>
5	<i>Use of the Common Areas, Facilities and Services</i>
6	<i>50% Ownership of the Staircase above the First Floor Landing</i>
7	<i>Proportionate 38.75% undivided, indivisible, and impartible ownership rights in the plot of land measuring 600 sq. Yds.</i>
8	<i>50% of additional / increased FAR available upon sanction or in the future</i>

**BUILDER'S ALLOCATION IN G-9, SOUTH EXTENSION-II, NEW
DELHI-110049**

1	<i>Entire Ground Floor</i>
2	<i>Entire & Exclusive Driveway with Independent Entrance as specified</i>
3	<i>Use of Common Areas, Facilities and Services, and Staircase upto the First Floor Staircase Landing</i>
4	<i>Dedicated Area for Overhead Tanks & Utilities for Ground Floor on Terrace</i>
5	<i>Proportionate 22.5% undivided, indivisible and impartible ownership rights in the plot of land admeasuring 600 sq. Yds.</i>

6	<i>No Entitlement to any additional Far</i>
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4. The petitioner had also stated that his late brother was a Director and 80% share holder in the company M/s Girdher & Company Private Limited, which was a clearing agency in the business of exporting/importing. The company was operating out of the three shops owned by his late brother at Defence Colony bearing nos. 211, 213, and 215 Defence Colony Flyover market, New Delhi-110024. The Petitioner is the other Director and 20% share holder in the said company. After the death of his late brother, the petitioner's wife has been appointed as the other Director. He further stated that his late brother also had a self proprietorship firm by the name of M/s Jivi which had only one Bank Account being Current Account No. 3091002100001090 maintained with Punjab National Bank, Jangpura Extension. New Delhi-110014. The said proprietary concern ceased to exist upon the death of his late brother.

5. It is the petitioner's case that his late brother had two properties in Goa by the name of Sunbeam at House No. 13, Saunta Vaddo Assago, Bardez, Goa-403507 and Moonbeam, vacant plot bearing No. 38, Saunta Vaddo, Assagao, Bardez, Goa-403507. Copy of the Sale Deed with regard to Sunbeam is Mark A along with the Sale Deed of property Moonbeam, which is Mark B. It is the petitioner's case that his late brother let out the ground floor portion of the built up house on the said property to M/s Rangeela Limited and was receiving a monthly rent of Rs.67,500/-, which is

being deposited by M/s Rangeela Limited in the account of his late brother bearing No.003001508004 with the ICICI Bank at Garden Centre, Phase-II, Mapusa, Goa-403507. M/s Rangeela Limited is in possession of the ground floor of Sunbeam till date and has been depositing the rent in the aforementioned bank account of his late brother. The possession of the first floor of the Sunbeam was with his late brother. That in respect of running and maintaining Sunbeam including payment of utilities, property tax etc., there is a large expense, which the petitioner is bearing. He also stated that his late brother has purchased property bearing No. B-256 Okhla Industrial Area, Phase-1, Okhla, New Delhi-110020 on March 14, 2014. Conveyance Deed with regard to the said property is exhibited as Ex.PW1/13. His late brother also owned three shops bearing Nos. 211, 213 and 215, Defence Colony Flyover market, New Delhi. Copy of Deed of shop of 215 is exhibited as Ex.PW1/14, copy of Conveyance Deed of shop of 213 is exhibited as Ex. PW1/15 and copy of Conveyance Deed of shop of 211 is exhibited as Ex.PW1/16. It is the petitioner's case that his only daughter Ms. Jayati Sethi was the nominee in some of the bank accounts of his late brother. Ms. Jayati Sethi has also given her no objection to her father, the petitioner herein, being administrator of his late brother's Estate. Letter written by the petitioner's daughter giving her No Objection is marked as Mark C along with power of attorney executed by Ms. Jayati Sethi in favour of the petitioner, which is exhibited as Ex.PW1/18. The petitioner states that after the unfortunate death of his late brother, the petitioner has taken up the administration of the estate of his late brother and has incurred

expenses in the upkeep of the properties, paying off credit card bills, funeral expense, paying staff salaries, paying the taxes of his late brother. A reference is also made to certain liabilities of his late brother.

6. When the petition was listed before this Court, notice / citations were directed to be issued to the respondents and in newspapers Statesman (English) Delhi edition, Rashtriya Sahara (Hindi) Delhi edition, Nav Hindu Times (English) Goa edition and Nav Pratibha (Marathi) Goa edition. The citation published in Rashtriya Sahara (Hindi) Delhi edition is exhibited as Ex.PW1/20. The notice published in the Statesman (English) Delhi edition is exhibited as Ex.PW1/21. Further, the citation published in Nav Hind Times (English) Goa edition is exhibited as Ex.PW1/22 and notice published in Nav Prabha (Marathi) Goa edition is exhibited as Ex.PW1/23. Despite issuance of citations, objections have not been received. The petitioner has filed his evidence by way of affidavit, which is Ex.PW1/A and his statement was recorded by the learned Joint Registrar (Judicial) on November 27, 2019 when the petitioner has tendered his evidence by way of an affidavit. The learned Joint Registrar (Judicial) has, in all, exhibited 23 documents Ex.PW1/1 to Ex.PW1/23 except Ex.PW1/11, Ex.PW1/12 and Ex.PW1/17 being the photocopies were de-exhibited and are read as Mark A, B and C respectively.

7. From the above, it is clear that the late Sanjeve Sethi was unmarried and had died intestate. His parents also expired in the year 1984 and 2004 respectively. He left his only sibling, Sunil

Sethi, the petitioner herein, as the only surviving legal Class II heir, as per Schedule II of the Hindu Succession Act. Further, this Court is not required to go into the question of title of the deceased in respect of the above-mentioned properties in these proceedings for letters of administration of the deceased under the Indian Succession Act, 1925. That being so, the petitioner has made out a case for grant of letters of administration with regard to estate of his late brother Sanjeve Sethi as per Schedule B (Ex.PW1/2) of the petition.

8. Some of the immovable properties of the deceased have been valued by the Competent Authorities. The valuation reports in that regard has been called from the registry and placed on record. The valuation with regard to other properties need to come from the Competent Authorities. The petition is allowed and the letters of administration are issued in favour of the petitioner in respect of the estate of late Sanjeve Sethi, as mentioned in Schedule B, Ex.PW1/2. The letters of administration be issued after filing the requisite Court fee and bonds by the petitioner. All pending applications are disposed of.

9. List this matter before the learned Joint Registrar for ensuring receipt of the valuation reports with regard to the immovable properties from the Competent Authorities on 17th December, 2019.

V. KAMESWAR RAO, J

DECEMBER 10, 2019/ak