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

+ TEST.CAS. 105/2011

SHAKUNTALA DEVI & ORS

..... Petitioners

Through: Ms. R. Mekhala, Advocate.

versus

STATE & ANOTHER

..... Respondents

Through: Mr. K K Bhalla, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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07.08.2019

1. The present Petition has been filed seeking probate as Executor in respect of the document dated 1st June 2000 claimed to be the validly executed last Will of Late Shri Thakur Nanak Singh in respect of the properties described in the Schedule attached with the petition, being:

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S. NO.	IMMOVEABLE PROPERTIES	MOVABLE PROPERTIES
1.	House No. 503, Greater Kailash Part II, New Delhi -110 048 — Double storey house -550 sq.yds. -ground floor, garage, first floor, second floor, servant quarter block- Value App Rs. 6.30 crores	One Old 12 bore DBBL Gun No. YZ-4422 under Arm License No. 119/Jan/Kalkaji/Delhi dt. 25.01.1971
2.	Flat No. GF-1, 15-17 Tolstoy House, Tolstoy Marg, New Delhi - 110 001, Commercial flat on ground floor measuring super area 620 sq.ft. Rs.90 lacs	One Old Rolex watch with chain made of 18 carat gold

3.	Shop No. 80, Yashwant Place, Chanakyapuri New Delhi -110 021. Leasehold Rights	2 Old cars viz., Maruti Zen No. DL-3C-L-1428 and Tata Indica No. DL-3C-Q-2614
4.		Savings Account with IOB & OBC of Greater Kailash Part-II branches
5.		PPF Account No. 40 with Indian Overseas Bank, G.K.Part-II branch. New Delhi.

(Rs. 20 lacs = Total Movable)

Rolex Watch , Gun & Cars are not capable of valuation being very old.

LIABILITY

Security Deposit Payable to Tenants At GF - 1 Tolstoy Marg : Rs 13.65 lacs

Hospitalizations, Funeral and other incidental Expenses : Rs. 0.35 lacs
of Late Shri. Thakur Nanak Singh

Total : Rs.14.00 lacs"

2. It is the case of the Petitioner that Late Shri Thakur Nanak Singh expired on 12th March 2011 while residing at S-503, Greater Kailash Part - II, New Delhi -110048, leaving behind the following legal heirs: (i) Shakuntala Devi [Wife (Petitioner No. 1)]; (ii) Kanwar Mangleshwar Singh [Son (Petitioner no. 2)]; (iii) Shivani Thakur [Daughter (Petitioner No. 3)]; and, (iv) Poonam Handoo [Married Daughter (Respondent No. 2)]. Late Shri Thakur Nanak Singh had made a registered Will dated 1st June 2000 annexed hereto as his last will and testament in respect of his properties described hereinabove and under the said document, the Petitioners and the Respondent No. 2 are beneficiaries of the properties left by deceased, Late Shri Thakur Nanak Singh and Petitioner No. 1 is the Executor and wife of deceased with whom she had been living till the time of his death. According to the Petitioner,

the valuation of the property as per the market rate, which is above the circle rate is approximately Rs.7.40 Cr. The details of the shares that the heirs of the deceased would be entitled to under the document dated 1st June 2000 claimed to be the validly executed last Will of the deceased are as under:

Petitioner No. 1	App. Rs.17 lacs in cash and right to enjoyment for life of share in S-503, Greater Kailash -II, New Delhi
Petitioner No. 2	App. Rs. 1 lac in cash, and V2 share in S-503, Greater Kailash-II, Commercial Flat in Tolstoy Marg and Leasehold right in Shop No. 80, Yashwant Place, Chanakyapuri New Delhi-110 021
Petitioner No. 3	Rs.1 lac in cash and 50% share in S-503, Greater Kailash II, New Delhi after lifetime of Petitioner No. 1
Respondent No. 2	Rs. 1 lac in cash

3. The petition was entertained and notice ordered to be issued on 12th December 2011. Citation was also ordered to be published with a direction to the Chief Revenue Controlling Authority to submit a valuation report of the three immovable properties mentioned in Annexure-III to the petition.

4. Vide order dated 4th March 2014, CS(OS) 1983/2011 titled **Poonam Handoo Vs. Kanwar Mangleshwar Singh & Ors.** was consolidated with the present Test Gas. 105/2011. Vide order dated 11th February 2015, the following common issues were framed:

- "i. Whether the Will of the deceased Shri Thakur Nanak Singh dated 01.06.2000 is legal and binding and if so, its effects? OP Kanwar Mangleshwar Singh
- ii. Whether Poonam Handoo is entitled to partition of the suit property and if so, what is her share entitlement? OP Poonam Handoo
- iii. Whether the Poonam Handoo is entitled to rendition of accounts, if so, from whom? OP Poonam Handoo

iv. Whether suit of Poonam Handoo is liable to be dismissed as it has been undervalued and ad valorem court fee has not been fixed? OP Kanwar Mangleshwar Singh
V. Relief"

5. On 6th November 2015, evidence by way of affidavits of three witnesses on behalf of Kanwar Mangleshwar Singh were reported to be filed in connected CS(OS) 1983/2011, pertaining to both the cases and Registry was directed to place the said affidavits of evidence of three witnesses filed in CS(OS) 1983/2011, in the present lead case. On 29th March 2017, Learned counsel for respondent no.2/objector submitted that in spite of contacting the registry/branch on many occasions, list of witnesses filed vide diary no.154428 & 154432 on 26th March 2015 are not traceable and the registry /branch was directed to trace the same and in case the same are not traceable, to give its report. The parties were referred to Mediation on 25th January 2019. On 30th July 2017, the Mediation report was received in Court and it was recorded that the parties have executed a Settlement Agreement dated 1st May 2019 before the Delhi High Court Mediation and Conciliation Centre.

6. In terms of the settlement between the parties, the sole objector has withdrawn all her objections, and has no objection to the grant of the probate petition. Evidence by way of affidavit of Petitioner No. 2 has been filed and tendered in evidence as **Ex. PW-1/A**.

7. Mr. Raj Bahl (PW-2) has been examined in Court as the purported attesting witness. The said attesting witness has in his examination-in-chief

identified his signatures and the signatures of the deceased Sh. Thakur Nanak Singh on the document claimed to be the validly executed last Will of the deceased. Evidence by way of affidavit of Mr. Pawan Jain (PW-3) has also been filed. Respondent no. 2 (sole objector) has also filed her evidence by way of affidavit.

8. The document dated 1st June 2000 claimed to be the validly executed last Will of the deceased has been placed on record and admitted into evidence as **Ex. PW-1/2**. The Death Certificate of the deceased has also been proved as **Ex. PW-1/1**.

9. Thus, the petitioners have examined the witness to the document dated 30th July 2009 claimed to be the validly executed Will of the deceased. The testimony of the witness has gone unrebutted. I have perused his testimony and am satisfied that the said document, on which **Ex. PW-1/2** has been put, has been validly proved.

10. It is thus held that the document dated 1st June 2000 is the validly executed last Will of deceased Late Thakur Nanak Singh. Therefore, the Petitioner is entitled to grant of probate in respect of the said document.

11. Ex. PW-1/2 is declared as the validly executed last Will of the deceased Late Sh. Thakur Nanak Singh, last resident of S-503, Greater Kailash Part - II, New Delhi -110048 and probate is ordered to be issued with copy of the Will annexed on the Petitioner paying/depositing the requisite court fees and furnishing an Administration Bond of the value of the estate as per reports of

valuation stated to have been received with one surety of the like amount.

12. Petition is disposed of.

AUGUST 07, 2019
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SANJEEV NARULA, J