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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 15.04.2019

+ TEST.CAS. 40/2017

MR AMARDEEP SINGH SONI

..... Petitioner

Through Mr.Ravinder Singh and Ms.Raveesha
Gupta, Advs.

versus

STATE OF NCT OF DELHI

..... Respondents

Through None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. The petitioner has filed this present petition under section 276 of the Indian Succession Act seeking grant of probate in favour of the petitioner with respect to the will dated 31.01.2016 which was duly executed by Late Ms. Gurdeep Kaur Soin (*hereinafter referred to as "the deceased"*) who has expired on 28.02.2017 at New Delhi.

2. It is averred in the petition that the petitioner is the nephew of the deceased. It is further averred that respondent no. 2 and 3 are real sisters of the deceased.

3. Notice was issued to the respondents by this court on 07.02.2018. Respondent no. 1, the state, has filed the valuation report dated 26.11.2018 qua the immovable property of the deceased. Respondent no. 2 and 3 had filed their replies to the said petition.

4. Essentially the case of the petitioner is that the deceased were 3 sisters, namely, Respondent no. 2 and 3 and Mrs. Jasbir Kaur Soni. It is stated in the petition that the petitioner is the son of Mrs. Jasbir Kaur Soni. It is pertinent to mention that Mrs. Jasbir Kaur Soni has expired on 20.11.1998. It is further stated that the deceased was married to Mr. S. Dhanbir Singh Soin and out of the wedlock was blessed with one daughter Ms. Gurmeet Kaur Soin. It is also stated that the husband and daughter of the deceased, namely, Mr. S. Dhanbir Singh Soin and Ms. Gurmeet Kaur Soin pre-deceased her. It is also pertinent to mention that the daughter of the deceased was unmarried during her lifetime.

5. It is pleaded in the petition that the deceased was handicapped and was under the care of the petitioner. It is further pleaded that during the lifetime of the deceased, she became joint owners with her daughter (i.e. Ms. Gurmeet Kaur Soin) of the immovable property bearing no. 230, Block-A, Pocket 3, Sector 5, Ground Floor, Rohini, New Delhi-85. In addition the deceased also acquired several miscellaneous movable assets in her name and jointly with her daughter Late Ms. Gurmeet Kaur Soin. The details of which are given in the present petition.

6. It is averred in the petition that during the life time of the deceased, she executed a will dated 31.01.2016, wherein, the deceased has bequeathed the immovable and several movable properties in the favour of the petitioner.

7. Hence, this petition is filed by the petitioner being the sole beneficiary for grant probate of the will dated 31.01.2016. Respondent no. 2 and 3 have filed their replies to the said petition states that they have no objection to the

present petition. There are hence no contesting respondents in this present petition.

8. Evidence was recorded. The petitioner has filed evidence by way of affidavit of himself along with the two attesting witnesses, namely, Sh. Manmohan Singh Soni and Sh. Surjeet Dhar Dubey.

9. A perusal of the evidence by way of affidavit of the petitioner affirms the contents of the petition. It is stated that during the lifetime of the deceased she became joint owners with her daughter to the suit property no. 230, Block-A, Pocket 3, Sector 5, Ground Floor, Rohini, New Delhi-85 which is a self acquired property. The deceased was further owning various bank accounts, mutual funds, FDRs, etc. in her sole name or in joint name with her daughter. It is further stated that the deceased executed a will dated 31.01.2015 wherein the petitioner is the sole beneficiary. The said will is marked and exhibited as Ex. PW 1/1. It is also stated that the petitioner is the nephew of the deceased. The deceased had three sisters, namely, Mrs. Inderjeet Kaur Sodhi, Mrs. Baljeet Kaur and Late Mrs. Jasbir Kaur Soni. The deceased was married to Late Mr. S. Shanbir Singh Soin who pre-deceased her. The deceased was also blessed with a daughter, namely, Late Ms. Gurmeet Kaur Soin who was unmarried and also pre-deceased her. The death certificate of Late Ms. Gurmeet Kaur Soin is marked and exhibited as Ex. PW 1/2. It is also stated that the deceased was handicapped and was under the care of the petitioner. Due to her old age the deceased expired on 28.02.2017. The death certificate of the deceased is marked and exhibited as Ex. PW1/3. It is averred that the sisters of the deceased, namely, Respondent no. 2 and 3 have already furnished their respective NOC's to the petition.

10. A perusal of evidence by way of affidavit of both the witnesses to Will, namely, Mr. Manmohan Singh Soni and Mr. Sujeet Dhar Dubey and original will of the deceased would show that the original will dated 31.01.2016 was executed by the deceased in their presence. Both the witnesses have identified their respective signatures and also identified the signature of the deceased on the Will. They also state that the deceased was in sound disposing mind at the time the said will was executed.

11. In view of the above, this court is satisfied that the petitioner has succeeded in proving that the deceased had executed the will dated 31.01.2016 in sound disposing mind. Both the witnesses, namely, Mr. Manmohan Singh Soni and Mr. Sujeet Dhar Dubey to the will, had identified their signatures and have stated that they were present when the deceased affixed her signature on the said will.

12. In view of the aforementioned facts and documents, the present petition is allowed. As the petitioner is the sole executor of the said will, I grant probate to the will dated 31.01.2016 duly executed by Late Mrs. Gurdeep Kaur Soin in favour of the petitioner, subject to the petitioner filing the requisite Court fee in terms of the valuation report and execution of administration and surety bond in accordance with law.

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

JAYANT NATH, J

APRIL 15, 2019/ss

Corrected and released
on 10.05.2019