

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: September 02, 2019

+ TEST.CAS. 72/2018

MR. ASHWANI KUMAR SARWAL & ANR.

..... Petitioners

Through: Ms. Nihaarika Jauhari, Adv. for
Ms. Mrinalini Sen, Adv.

versus

THE STATE OF N.C.T. OF DELHI

..... Respondent

Through: Mr. Rajneesh Bhaskar, Govt. Panel
Counsel, GNCTD for R-1

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The petitioners Sh. Ashwani Kumar Sarwal and Sh. Sanjeev Kumar Sarwal are seeking letters of administration in respect of the estate of the deceased Ms. Anjum Sarwal who died intestate on February 28, 2017. The petitioners are the brothers of Late Ms. Anjum Sarwal.

2. It is stated that Late Sh. Jagjeet Singh, father of the Late Ms. Anjum Sarwal, was the erstwhile owner of built-up property bearing House No.34, D-Block, Anand Vihar, Delhi-110092, admeasuring 270.83 square yard along with its whole of structure

by virtue of conveyance deed duly registered as document No.2236, in Block I, Volume No.2815 at pages 108 to 109, registered on May 07, 1996 in the Office of Sub-Registrar IV, Delhi, allotted by Delhi Development Authority. Sh. Jagjeet Singh died on August 30, 2006 at Northern Railway Central Hospital, New Delhi. Late Sh. Jagjeet Singh was survived by the following Class I legal heirs:-

- a. Late Mrs. Savitri Sarwal (Wife)
 - b. Sh. Ashwani Kumar Sarwal (son / petitioner No.1)
 - c. Sh. Sanjeev Kumar Sarwal (son / petitioner No.2)
 - d. Late Ms. Anjum Sarwal (daughter)
3. Late Sh. Jagjeet Singh Sarwal bequeathed the entire immoveable property bearing House No.34, D-Block, Anand Vihar, Delhi-110092 to Late Ms. Anjum Sarwal vide his Will dated October 01, 2000 to the exclusion of his other legal heirs. After the demise of Late Sh. Jagjeet Singh Sarwal on August 30, 2006, the other legal heirs of Late Sh. Jagjeet Singh Sarwal namely Late Mrs. Savitri Sarwal, Sh. Ashwani Kumar Sarwal and Sh. Sanjeev Kumar Sarwal duly admitted the Will dated October 01, 2000 along with its contents. On December 17, 2007, Late Mrs. Savitri Sarwal, petitioner No.1 and petitioner No.2 duly submitted their 'No Objection Certificate' cum Declaration in favour of Late Ms. Anjum Sarwal with respect to property bearing House No.34, D-Block, Anand Vihar, Delhi-110092 with the Municipal Corporation of Delhi, East Zone, for the purpose of mutation of the property bearing House No.34, D-Block, Anand Vihar, Delhi-110092 in the name of Late Ms.

Anjum Sarwal.

4. That upon due satisfaction of the facts and documents, Municipal Corporation of Delhi, East Zone mutated the said immovable property in the name of Late Ms. Anjum Sarwal on September 23, 2008. It is stated that Mrs. Savitri Sarwal also passed away on May 16, 2015. It is also stated that the petitioners herein have duly executed registered relinquishment deed dated October 19, 2016 in favour of Late Ms. Anjum Sarwal with respect to the property to ensure that the contents of the Will dated October 01, 2000 are fully honoured and complied with. It is stated that Ms. Anjum Sarwal passed away on February 28, 2017. Late Ms. Anjum Sarwal was single and had no children during her lifetime.

5. It is stated that the petitioners made a diligent search for any Will that their sister, Late Anjum Sarwal may have made but have not found any Will. According to the petitioners, Late Anjum Sarwal has left behind the following legal heirs and there is no other successor to the deceased person's properties:

- a. Sh. Ashwani Kumar Sarwal (brother / petitioner No.1)
- b. Sh. Sanjeev Kumar Sarwal (brother / petitioner No.2)

6. The deceased has left behind the following estate "*House No.34, D-Block, Anand Vihar, Delhi-110092*".

7. It is also stated that Late Ms. Anjum Sarwal was also the absolute owner of open plot No.40 in Survey No.213 admeasuring 300 square yards or 250.8 square meters situated at Bhanu Enclave, Pahe I, Yaprak Village, under Alwal Municipality, Malkhajgiri Mandal, Ranga Reddy District,

Hyderabad, Telangana, which falls within the jurisdiction of the District Court at Rangareddy and they are in the process of taking appropriate steps for seeking Letters of Administration for the said property before the appropriate Court.

8. It may be stated here that initially the petition has been filed by both the petitioners in their individual capacities (as signed by them). Later it transpired when evidence by way of an affidavit was filed, the same was filed by the petitioner No.1 Sh. Ashwani Kumar Sarwal, as Sh. Sanjeev Kumar Sarwal had executed a special power of attorney dated October 10, 2018 in favour of Sh. Ashwani Kumar Sarwal. The petitioner Sh. Ashwani Kumar Sarwal has examined himself as PW-I who has also filed an affidavit exhibited as Exhibit PW1/1 wherein he has deposed that Late Ms. Anjum Sarwal died intestate on February 28, 2017. Late Ms. Anjum Sarwal was the owner of the immovable property House No.34, D-Block, Anand Vihar, Delhi-110092.

9. It is stated that the father of the petitioners, Late Ms. Anjum Sarwal and husband of Late Mrs. Savitri Sarwal had bequeathed the property in favour of Ms. Anjum Sarwal and the same was mutated in the records of the Municipal Corporation of Delhi, East Zone. It is also stated that Mrs. Savitri Sarwal also passed away on May 16, 2015. It is also stated that Ms. Anjum Sarwal passed away on February 28, 2017. Late Ms. Anjum Sarwal was single and had no children during her lifetime and she has left behind the petitioners Sh. Ashwani Kumar Sarwal and Sh. Sanjeev Kumar Sarwal as the only surviving the legal heirs.

10. I note from the order dated August 14, 2019 PW-1 Sh. Ashwani Kumar Sarwal was examined and cross examined and thereafter discharged. The following documents have been exhibited:

<i>Sl. No.</i>	<i>Description of document</i>	<i>Exhibit</i>
1.	<i>Copy of original Power of Attorney dated 10th October, 2018 of Sh. Sanjeev Kumar Sarwal in favour of Sh. Ashwani Kumar Sarwal.</i>	<i>Ex.PW1/1</i>
2.	<i>Copy of adhar card of Late Ms. Anjum Sarwal</i>	<i>Ex.PW1/2</i>
3.	<i>Copy of death certificate of Late Ms. Anjum Sarwal</i>	<i>Ex.PW1/3</i>
4.	<i>Copy of conveyance deed dated 6.5.1996</i>	<i>Ex.PW1/5</i>
5.	<i>Electricity bills dated 13.9.2018 in the name of Late Sh. Jagjeet Singh Sarwal</i>	<i>Ex.PW1/6</i>
6.	<i>Copy of water bill dated 20.8.2018</i>	<i>Ex.PW1/7</i>
7.	<i>Copy of will of late Sh. Jagjeet Singh Sarwal dated 1.10.2000</i>	<i>Ex.PW1/8</i>
8.	<i>Copy of death certificate of Late Sh. Jagjeet Singh</i>	<i>Ex.PW1/9</i>
9.	<i>Copy of letter dated 23.9.2008 from MCD</i>	<i>Ex.PW1/10</i>
10.	<i>Relinquishment Deed dated 19.10.2016</i>	<i>Ex.PW1/11</i>

11.	<i>Death certificate of Late Smt. Savitri Sarwal</i>	<i>Ex.PW1/12</i>
12.	<i>Adhar cards of petitioner Nos.1 and 2</i>	<i>Ex.PW1/13</i> <i>and</i> <i>Ex.PW1/14</i>
13.	<i>Details of the estate of the deceased</i>	<i>Ex.PW1/15</i>

11. The citation of this petition was published in the Delhi *The Statesman, English edition and Rashtriya Sahara, Hindi edition* and no objection has been received from any person.

12. This Court is not required to go into the question of title of the deceased in respect of the above mentioned property in these proceedings for letters of administration of the deceased estate under the Indian Succession Act, 1925. I am conscious of the fact, that, the petitioners have not filed the original of the Death Certificate of Late Ms. Anjum Sarwal, but, the fact that an affidavit has been filed by the petitioner No.1 wherein a positive statement has been made by him about the fact that Ms. Anjum Sarwal has passed away on February 28, 2017. As such, there is no impediment to the issuance of letters of administration in respect of the estate of the deceased being House No. 34, D-Block, Anand Vihar, Delhi-110092. The immovable property of the deceased being House No. 34, D-Block, Anand Vihar, Delhi-110092 has been valued by the Competent Authority vide letter dated January 10, 2019 page 28 of the paper book.

13. The petition is allowed and the letters of administration are issued in favour of the petitioners namely Sh. Ashwani

Kumar Sarwal and Sh. Sanjeev Kumar Sarwal in respect of estate of Late. Ms. Anjum Sarwal being House No. 34, D-Block, Anand Vihar, Delhi-110092 admeasuring 270.83 square yards. The letters of administration be issued after filing of the requisite Court fee and bonds by the petitioners.

V. KAMESWAR RAO, J

SEPTEMBER 02, 2019/aky

