

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

% Decided on: 20th November, 2019

+ **TEST. CAS. 64/2018**

PRIYA DUGGAL LALL

..... Petitioners

Represented by: Mr.Amit Verma, Advocate.

versus

STATE & ANR.

..... Respondents

Represented by: Mr. Rajiv R. Mishra, Advocate
for respondent No.2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

I.A. 14795/2018 (Exemption)

1. By this application, the petitioner seeks exemption from filing the affidavits of the attesting witnesses to the Will of the deceased Late Mr.Harcharan Duggal as the Will has already been proved.
2. Allowed subject to just exceptions. Application is disposed of.

TEST. CAS. 64/2018

1. Petitioner has filed this present petition under Section 228 of Indian Succession Act seeking grant of probate/Letters of Administration on the basis of the Will dated 26th January 2005 in relation to the estate of Late Mr.Harcharan Duggal in her favour.
2. Briefly stated, Petitioner is an American citizen and has authorized Mr.Sulsa Baid on her behalf vide a Special Power of Attorney dated 18th April 2018. Petitioner and Respondent No. 2 are the daughters of Lt. Mr.Harcharan Duggal. The deceased died on 8th March 2015 in New Jersey, USA.

3. During the lifetime of the deceased, he executed a Will dated 26th January 2005 at the County of McHenry, State of Illinois which was witnessed by Lt. Mrs.Kulwant Duggal and the Attorney of the deceased.

4. Mrs.Kulwant Duggal who died on 28th January 2014 was appointed as the executor of the said Will by the testator. As per the Will in the event the executor refuses or is unable to act as such executor, the petitioner was to act as an executor with the same powers given to the executor without bond. Since the contingent event of Mrs.Kulwant Duggal acting as an executor and proving the said Will did not happen because of her demise, the petitioner was appointed as the executor.

5. Further, the petitioner filed an application for grant of probate in the Somerset County Surrogate's Court, State of New Jersey with respect to the Will dated 26th January 2005 which was duly proved as the last Will and testament of Late Mr.Harcharan Duggal.

6. The tabular devolution of the movable assets in favour of the petitioner is as under:

<i>Moveable Properties</i>	<i>Value</i>
Account No. 90072030005187, in Syndicate Bank, INA Colony, New Delhi	₹ 28,82,000/-

7. Further, the testator appointed Ms.Mandira Aurora (Respondent No. 2 herein) to act as an executor in the event the petitioner could not act as an executor. Respondent No.2 did not oppose/object to the probate proceedings in New Jersey proceedings and has also filed an affidavit of no objection if letter of administration/ probate is granted in favour of petitioner in the present petition.

8. The application for probate before the Somerset County Surrogate's Court, State of New Jersey was allowed in favour of the petitioner however the same cannot have effect over the properties in India. Hence, the present petition.

9. From the pleadings of the petitioner in the petition as also the documents enclosed with the petition, the petitioner has clearly made out a case for grant of probate.

10. In view of facts and circumstances, there is no impediment in granting the relief of probate as claimed in the petition. The petitioner being the beneficiary under the said Will which is proved to have been executed validly by the testator Lt. Mr. Harcharan Duggal, in absence of proof to the contrary.

11. Accordingly, probate with respect to the Will dated 26th January 2005, is granted in favour of the petitioner in respect of the movable property left behind by the deceased as mentioned in Para 6, subject to the requisite court fees/stamp duty being furnished in accordance with the valuation report and upon submission of administration bond and surety, in accordance with law, to the satisfaction of the Registrar General of this Court.

12. Petition is disposed of.

13. Matter be listed before the Registrar General for payment of requisite court fees in respect of the abovementioned movable property of the deceased and for acceptance of the administration bond and surety bond on 10th December, 2019.

(MUKTA GUPTA)
JUDGE

NOVEMBER 20, 2019