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IN THE HIGH COURT OF DELHI AT NEW DELHI

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TEST.CAS. 101/2015

SHRI RAHUL SOFAT

..... Petitioner

Through: Mr. Ravi Varma, Advocate

Versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: None

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Date of Decision: 28th January, 2019.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present petition has been filed under Section 278 of the Indian Succession Act, 1925, for grant of Letters of Administration of Will dated 05th April, 2005 with respect to the immovable properties of deceased Smt. Raj Mehta, daughter of Late Sh. R.S. Mehta, which are situated outside Delhi in Himachal Pradesh and Haryana.

2. It is stated in the petition that the petitioner is the nephew of the testatrix Late Smt. Raj Mehta who expired on 25th April, 2005, in Haryana. The deceased is stated to have executed a registered Will dated 05th April, 2005, which was duly attested by Mr. S.R. Mittal and Mr. R.P. Singh.

3. It is stated that the deceased has left behind three Class-II legal heirs, Ms. Neelu Sofat i.e. her niece, and her two nephews, Dr. Rajesh Sofat and Mr. Rahul Sofat i.e. the petitioner.

4. In the petition, the deceased is stated to be the sole owner of the following assets/estates:-

- a. DDA Plot No.79, Pocket-5, Sector-22, Rohini, Delhi-110085;
- b. Plot at Badarpur, Ponta Sahib, Himachal Pradesh;
- c. Shop in Anaj Mandi, Khizaribad, Distt. Yamuna Nagar, Haryana;
- d. Plot of land at Khizrabad, Haryana;
- e. 50% ownership right in Stone Crusher named M/s Mehta Stone Crusher with accessories at Doiwala in Yamuna Nagar, Haryana;
- f. FDRs NO.822400, 822401 with SBI, Ponta Sahib, H.P;
- g. Any other bank account, FDR, Shares or other Movable or immovable property that may be found;

5. The petitioner had filed a probate petition bearing P.C. No. 15/2010 in the Court of District Judge, Karkardooma Courts, Delhi, as one of the properties bequeathed in the said Will was situated in Delhi.

6. The court of Shri Surinder Kumar Sharma, ADJ, Karkardooma Court, Delhi, granted Letters of Administration vide judgment dated 18th November, 2013 in favour of the petitioner with respect to the only property situated at Delhi. The said judgment is exhibited as PW-1/8.

7. Notice was issued in the present petition on 20th November, 2015. Vide order dated 20th November, 2015 citation had been published in the newspaper 'Statesman' English Edition and 'Jan Satta' Hindi Edition. Since the properties are also situated in Himachal Pradesh and Haryana, vide order dated 24th February, 2016 the citation was also published in 'Tribune'

English Edition and 'Naya India' Hindi Edition, having circulation in Yamuna Nagar (Haryana) and Ponta Sahib (Himachal Pradesh). No objections have been received after publication of the citation. Notice was duly served on the State and valuation reports have been filed by the State.

8. The other two surviving heirs of the testatrix i.e. nephew, Dr. Rajesh Sofat and niece, Ms. Neelu Sofat have filed their "No Objections" supported by an affidavit.

9. Mr. Rahul Sofat, petitioner and nephew of Late Smt. Raj Mehta, petitioner has filed his affidavit by way of evidence which has been exhibited as Ex. PW1/X. It has been stated by the petitioner in his affidavit that the Testatrix executed the Will out of her own freewill and consent and was in her full senses and sound disposing mind at the time of signing the said Will which was duly executed by her in the presence of the witnesses. It is further stated that the Testatrix expired on 25th April, 2005, in Haryana leaving behind her last Will and testament dated 05th April, 2005. The petitioner has proved the certified copy of Death Certificate of the Testatrix being Ex.PW-1/3.

10. The petitioner has filed an affidavit for additional evidence which has been exhibited as Ex. PW1/Y for bringing on record the death certificate of both the attesting witnesses to the Will. Vide Order dated 03rd October, 2018, an I.A. No. 10915/2018 was allowed and the petitioner was permitted to lead secondary evidence by examining additional witnesses named in the additional list of witnesses.

11. Mr. Vinay Kumar Mittal son of Late Mr. S.R. Mittal, has filed his affidavit dated 08th August, 2018 and the same is exhibited as Ex.PW3/A.

12. This Court is of the opinion that it has the territorial jurisdiction to

grant letters of administration with respect to the remaining properties bequeathed under the said Will as the deceased, Smt. Raj Mehta, had a fixed place of abode in Delhi and was residing with the petitioner till her death. Also one of the immovable properties bequeathed by the said Smt. Raj Mehta in her above mentioned Will is situated in Delhi, within the territorial jurisdiction of this Court. Hence, this Court has the jurisdiction to entertain the present petition and grant letters of administration with respect to the Will of Smt. Raj Mehta with respect to the properties situated outside the territory of Delhi.

13. In view of the aforesaid, in particular the judgment dated 18th November, 2013 passed by the Additional District Judge, East District, Karkardooma Courts, Delhi in P.C. No. 15/2010, the Court is satisfied that the petitioner has succeeded in proving the testatrix Late Smt. Raj Mehta had executed the Will dated 05th April, 2005 and the said Will was her last will and testament.

14. Consequently, the present petition is allowed and the Letters of Administration is issued in favour of the petitioner enabling him to administer the estate of deceased Late Smt. Raj Mehta, subject to the petitioner filing the requisite Court fee in terms of the valuation reports and submitting an administrative bond with one surety in accordance with law.

15. List before Joint Registrar on 6th March, 2019 for determination of Court fees to be paid.

MANMOHAN, J

JANUARY 28, 2019

js/as