

\$~8

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

%

Delivered on: 17th November, 2021

+ **TEST.CAS. 46/2021**

VISHAL GUPTA

..... Petitioner

Through : Mr.Hrishikesh Baruah and
Mr.Pranav Jain, Advocates.

versus

GNCT OF DELHI & ORS.

.....Respondents

Through : Mr.Hariom Gupta and Ms.Sukriti
Gupta, Advocates for R2, 3 & 4.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J. *(Through Video Conferencing)*

1. This petition is filed for grant of probate of a Will dated 30.07.2020, duly signed and executed by Late Mr.Raj Kumar, the deceased father of the petitioner herein.

2. It is the case of the petitioner the Will dated 30.07.2020 is the last Will and testament of his late father, Late Mr.Raj Kumar. The Family Tree of Late Mr.Raj Kumar (depicting all the Class I Legal Heirs) is mentioned in Para 3 of the petition. In the Will dated 30.07.2020 Late Mr.Raj Kumar has bequeathed all the properties mentioned in the Will dated 30.07.2020 in favour of his wife namely Smt.Bhagawati Devi/R2 and he made the petitioner, his son, an executor of the Will.

3. The testator and his wife/R2 had 4 children viz., the petitioner herein; Late Mr.Vikas Gupta, an unmarried son who predeceased on

05.03.2006 without any issues; Late Ms.Padmini Gupta, who predeceased on 11.08.2016 leaving behind her husband who is respondent No.3(a) and their minor daughter who is arraigned as respondent No.3(b) as well as the second daughter namely Ms.Jaishree Minda viz. respondent No.4.

4. The respondent No.2, the mother of the petitioner and respondent No.4, sister of the petitioner have given their no objection to the grant of probate *per* their affidavits filed on record. Mr.Prashant Garg/R3(a), husband of Late Padmini Gupta, the deceased sister of petitioner has also given his no objection to the grant of probate not only for self but also on behalf of his minor daughter. The said affidavits are on record.

5. There are two attesting witnesses to the Will, a) petitioner himself and b) his cousin sister Ms.Khushboo Agarwal. Their affidavits are annexed in the list of documents along with the death certificate dated 05.11.2020 of Late Mr.Raj Kumar.

6. I have perused the affidavits of Smt.Bhagawati Devi/R2; Mr.Prashant Garg/R3(a); two affidavits of Mr.Prashant Garg as well as his minor daughter; affidavit of petitioner; affidavit of Ms.Jaishree Minda/R4 and of Ms.Khushboo Agarwal, an attesting witness.

7. The citation was issued in the newspaper 'The Statesman' (English), Delhi Edition dated 13.07.2021.

8. The evidence affidavits of the petitioner as also of Ms.Khushboo Agarwal are on record. In his affidavit, the petitioner has deposed he is an executor of the last Will and Testament dated 30.07.2020 of his late

father, Late Mr.Raj Kumar. He has disclosed the Family Tree in para 3 of the affidavit showing all the Class I Legal Heirs of his late father Late Mr.Raj Kumar. He has deposed the entire property goes to his mother namely Smt.Bhagawati Devi/R2 as per the Will dated 30.07.2020 of his late father Mr.Raj Kumar. He further deposed in pursuance of executing his Will, his father had called him and Ms.Khushboo Agarwal, his niece to witness the execution of the Will and append their signatures as a token of witnessing the execution thereof.

9. He has deposed on 30.07.2020 when he reached the room the Late Mr.Raj Kumar, he had already got the Will prepared and he read the same and executed it in the presence of both the attesting witnesses. Late Mr.Raj Kumar signed the Will at all pages except page No.2 due to inadvertence; thereafter, the petitioner and Ms.Khushboo Agarwal signed the Will as witnesses in the presence of the testator and in presence of each other.

10. The Will has been perused as exhibit *PW1/A*. The original death certificate of Late Mr.Raj Kumar is proved as exhibit *PW1/B*.

11. The affidavit of respondent No.2, the mother of the petitioner has been proved as exhibit *PW1/C*; the affidavit of Mr.Prashant Garg is proved as exhibit *PW1/D*; the affidavit of Ms.Raghvi Garg as exhibit *PW1/E*; the affidavit of respondent No.4/Ms.Jaishree Minda as exhibit *PW1/F*; the affidavit of Ms.Khushboo Agarwal, his cousin as exhibit *PW1/G*; his own affidavit in support of the probate petition as exhibit *PW1/H*; the citation as exhibit *PW1/I*.

12. Ms.Khushboo Agarwal, another attesting witness has also deposed

TEST.CAS. 46/2021

Page 3 of 4

as PW2 in the similar manner as was deposed by the petitioner qua attestation of the Will dated 30.07.2020.

13. Considering the probate petition, the affidavits of all the respondents, of the petitioner and of the attesting witnesses; including the exhibits, I am of the considered opinion there is no impediment in the grant of probate to the Will dated 30.07.2020 of Late Mr.Raj Kumar, he being the ordinary resident of Delhi.

14. In the circumstances, the probate is granted to the Will dated 30.07.2020 and the petitioner is appointed as an executor of the said Will.

15. Registry to issue the letter of administration without Will annexed, on paying the requisite stamp duty etc per valuation of properties stated in Schedule-A of Rs.24,95,16,000/- and also upon their furnishing administration bond and surety bond.

16. In view of above, the petition and pending application stands disposed of.

NOVEMBER 17, 2021

R

YOGESH KHANNA, J.