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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 13th May, 2022

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TEST.CAS. 38/2021

MERETE SIMONSEN

..... Petitioner

Through: Mr. Ankur Mahindro, Mr. Shresth Choudhary and Mr. Aditya Kapur, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Ms. Pavitra Kaur, Advocate for R-1
Ms. Jaya Tomar, Advocate for R-2.**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present petition has been filed seeking grant of letters of administration under section 228 read with section 276 of the Indian Succession Act, 1925, in respect of the Will and Testament dated 3rd November, 2008 executed by Late Mr. Surendra Prakash Sharma, who was a Danish citizen. He passed away in Denmark on 9th March, 2013. At the time of his death, he was unmarried and died issueless. He had various properties in Denmark, along with certain accounts/deposits maintained with the State Bank of India (Specialised NRI Branch) in New Delhi (SBI). He executed his Will and Testament dated 3rd November, 2008 while cancelling his earlier Will and Testament dated 5th August, 2005 and Codicil dated 12th



September, 2005. The contents of the Will are stated in paragraph 4 of the petition.

2. After the demise of the testator, the petition for administration of his estate by a court appointed administrator, was filed by one of the beneficiaries, Mr. Girish Kaushik, before the competent court i.e. Court of Aarhus, Denmark. The said court vide order dated 18th April, 2013 had released the estate of the testator for administration by the petitioner.

3. The testator also maintained various accounts/deposits with SBI, as stated in paragraph 7 of the petition and the amounts and interest in respect of the said accounts/deposits have also accrued in favour of the beneficiaries. The SBI has refused to transfer the said amounts to the beneficiaries, in the absence of letters of administration by a competent court in India, in respect of the estate of the testator. Hence, this petition has been filed.

4. Notice was issued in the petition on 9th April, 2021. Citation has also been published by the petitioner in respect of the present petition.

5. Evidence by way of affidavit has been filed on behalf of the petitioner by one Mr. Shivam Vikram Singh, who has been authorized by the petitioner vide Power of Attorney dated 13th April, 2016 and the same has been exhibited as Ex.PW-1/1. The testator passed away in Denmark on 9th March, 2013. The death certificate along with its translated copy has been exhibited as Ex.PW-1/2. The testator had executed his last Will and Testament dated 3rd November, 2008. The authenticated copy of the said Will along with its translated copy has been exhibited as Ex.PW-1/3. The petitioner herein is the administrator appointed by the Court of Aarhus, Denmark, the competent court of jurisdiction in respect of the estate of the



testator, by way of a Probate Certificate dated 18th April, 2013. The probate certificate in favour of the petitioner, along with its translated copy has been exhibited as Ex.PW-1/4.

6. In the judgment dated 12th February, 2021 passed in W.P.(C)1402/2021 titled ***Dr. Sanjay Khanduja vs. Punjab National Bank and Anr.***, a Coordinate Bench of this Court has observed that the only requirement for claiming rights under a probate granted by a foreign court, would be to file apostilled copy of the judgment of the said foreign court. Counsel for the petitioner places reliance on the judgment of this Court in ***Mr. Mark Douglas Holford vs. State***, 2018 SCC OnLine Del 12297, the relevant observations of the said judgment are set out below:

“6. Section 228 of the Indian Succession Act, 1925, reads as follows:

“228. Administration, with copy annexed, of authenticated copy of Will proved abroad.—When a Will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of [India], and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.”

7. This court in *Narain Malik v. State* (supra), held as follows:

“8. The Will has already been proved in the Foreign Court of competent jurisdiction and the only requirement stipulated under section 228 of the Act for seeking letter of administration is that the petitioner has to file authenticated copy of the Will dated 12.3.2008. In *Dharamvir Sharma v. State*, 148 (2008) DLT 149, this court held as follows:

“7. The object of section 228 is to dispense with the need to produce the original will owing to its deposit in some other Court. The order under this provision is not like



section 276; however, its ancillary to a grant made by a competent court. Before making an order on such application, the court has satisfy itself that the copy produced before it answers the description in section 228.”

8. *It is manifest from the facts and the records that the petitioner has placed on record a properly authenticated copy of Will dated 20.11.1992 of Ms. Maria Geeta Lisa Therese Anastasia Luzia Alvares Meneses, which has been proved and registered in the Foreign Court of competent jurisdiction, i.e. in the High Court of Justice, Family Division, Leeds District Probate Registry, United Kingdom.*

9. *Accordingly, the present petition is allowed and the petitioner is hereby granted Letters of Administration in respect of the property bearing Flat No. 20, Dakshineswar, 10 Hailey Road, New Delhi along with the moveables lying therein subject to the petitioner paying the requisite court fees on the valuation as done by the SDM, Chanakyapuri, New Delhi and upon furnishing administration and surety bond. The Registry will issue Letter of Administration on his depositing the stamp duty as per law.”*

7. In view of the aforesaid facts and settled legal position, all parameters of Section 228 read with Section 276 of the Indian Succession Act, 1925 are fulfilled in the present case. The petitioner has placed on record the duly authenticated copy of the Will of the deceased, Late Mr. Surendra Prakash Sharma in respect of which, the probate has been granted by the competent court of Denmark, where the deceased resided. The petitioner has also filed the probate certificate dated 18th April, 2013 granted in favour of the petitioner by the competent court in Denmark. As such, this is an uncontested test case for the grant of probate.

8. Accordingly, the present petition is allowed and the petitioner is hereby granted letters of administration in respect of the following estate of Late Mr. Surendra Prakash Sharma, subject to the petitioner paying the



requisite court fees:

S.No.	Particulars	Amount
1.	Term Deposit	1785.12 GBP
2.	Term Deposit	63870.24 USD
3.	Saving Bank Account No.10818893570	283340.99 Rupees

9. In the facts and circumstances of the case, since the present petition is uncontested, there will be no requirement to file any administrative/surety bonds.

10. The petition stands disposed of.

MAY 13, 2022
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AMIT BANSAL, J.

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