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

% ***Date of decision: 24.01.2022***

+ TEST.CAS. 27/2020

VIJAY SINGHANIA Petitioner

Through Mr. Arjun Singh Bawa, Adv.

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through Ms. Sonali Chopra, Adv. for
respondent Nos. 2 to 4
Respondent No.5 already proceeded
ex parte

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

The hearing has been conducted through video conferencing.

1. The present petition was filed by the petitioner/executor (appointed by the Testator) under Section 276 of Indian Succession Act, 1925 read with Section 151 of Code of Civil Procedure, 1908 seeking grant of a Certificate of Probate in respect of the Last Will and Testament dated 18.03.2019 of late Mr. Vijay Goel.

2. The present petition has been filed by the petitioner on behalf of Testator, who passed away on 23.06.2019 after suffering from chronic



kidney disease V. The testator executed his Will and Testament dated 18.03.2019 prior to his demise with regard to his assets, including moveable and immoveable properties, which was witnessed by two independent witnesses, however, the testator passed away without registering the aforesaid Will. Therefore, after demise of Testator, as per Section 40 of the Registration Act, 1908, the wife of testator, i.e. respondent No.2, presented the said Will before the Sub Registrar, SR V A, Hauz Khas, New Delhi for registration and the same was registered on 13.12.2019 in presence of two witnesses. At the time of demise, the testator was survived by the Class I legal heirs, i.e. respondent Nos.2 to 5.

3. Learned counsel for petitioner submits that the aforesaid Will and Testament dated 18.03.2019 accurately describes the immovable and movable properties left behind by the testator. A Family Settlement dated 09.09.2016 was entered into between the testator, respondent No.5 who is mother of testator and his brother, namely, Mr. Ajay Goel, wherein they agreed to divide the moveable and immoveable assets among themselves as mentioned in the said Settlement.

4. Petitioner has also placed on record affidavits of Ms. Pallavi Singhania, wife of petitioner (PW-1) and affidavit Ms. Ruchi Gupta (PW-2)



who are the attesting witnesses to the Will and Testament dated 18.03.2019. In their affidavits, these witnesses have categorically stated that the Testator died on 23.06.2019 and prior to his death, he had executed a Will and Testament dated 18.03.2019 in their presence. They have also stated that they were present before the Sub Registrar SR V A Hauz Khas, New Delhi, when the aforesaid Will & Testament was registered on 13.12.2019.

5. Learned counsel appearing on behalf of respondents No.1 to 4 have submitted that there is no objection if the present petition is allowed.

6. Pertinently, in the present petition, respondent No.1 is the State; respondents No.2 to 5 are the Class -I legal heirs of deceased Testator. Respondents No.2 is the wife; respondents No.3 & 4 are two sons of deceased Testator, who have filed “No Objection Certificate” to the present petition. Respondent No.5 is the mother of the Testator, who was proceeded *ex parte* vide order dated 26.10.2021. It is also clear that Mr. Vijay Goel had executed the said Will and Testament dated 18.03.2019 voluntarily and in deposing state of mind and he had appointed the petitioner as the Executor of his Will. The details of properties of the Testator are mentioned in Para-10 to 10.23.2 and valuation report in respect thereof has also come on record. Hence, the present petition is allowed.



7. On furnishing the necessary court fees, execution of administration and surety bond, Registry is directed to issue Certificate of Probate in respect of Will and Testament dated 18.03.2019 of late Mr. Vijay Goel in respect of his properties /assets as mentioned therein.

8. With aforesaid directions, the present petition is accordingly disposed of.

JANUARY 24, 2022
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(SURESH KUMAR KAIT)
JUDGE

