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

% Judgment delivered on: 21st January, 2022

\+ FAO 66/2021&CM APPL. 5844/2021&CM APPL. 42757/2021

DR. YOGESH KUMAR TRIKHA & ORS. ..... Appellants

versus

STATE ..... Respondent

**Advocates who appeared in this case:**

For the Appellants : Mr. Rajnish Sinha, Advocate

For the Respondent : None.

**CORAM:-**
**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**SANJEEV SACHDEVA, J.**

1. The hearing was conducted through video conferencing.

2. Appellant impugns judgment-decree dated 13.03.2019, whereby the petition filed under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate has been dismissed on the ground that the petitioners/appellants have failed to prove that they are the brothers and sisters of the deceased – Rajesh Kumar Trikha.

3. Petition has been dismissed by the trial court on the ground that

the death certificate of the deceased – Rajesh Kumar Trikha records the name of the father of the deceased to be S.L. Trikha and the passport of the appellant No.1 records the name of the father as Shiv Sant Lal Trikha.

4. Trial court has held that even if name Shiv Sant Lal Trikha is abbreviated, then the initials would be S.S.L Trikha and not S.L. Trikha. Trial Court has held that the full name of abbreviated S.L. Trikha has not been disclosed. Trial court was of the view that mere statement of parties would not be sufficient and accordingly has held that the appellants have failed to prove that they are brothers and sisters of the deceased and accordingly dismissed the petition.

5. The claimants had filed the subject petition seeking grant of a succession certificate in respect of assets of Rajesh Kumar Trikha who expired on 14.02.2015, contending that the father of the claimants, Shiv Sant Lal Trikha was married to Smt. Bimla Trikha and they had three sons and four daughters, namely, Rajesh Kumar Trikha (deceased), Dr. Yogesh Kumar Trikha/appellant No.1, Mrs. Anita Khanna/appellant No.2, Mrs. Geeta Mohla/appellant No.3, Dr. Naresh Trikha/appellant No.4, Mrs. Meena Choudhary/appellant No. 5 and Mrs. Rita Choudhary/appellant No.6.

6. It is contended that Rajesh Kumar Trikha was married to Smt. Sushma Trikha and they had one son, Nitin Trikha. Smt. Sushma

Trikha pre-deceased Sh. Rajesh Kumar Trikha on 02.02.1977 (Ex PW 1/2) and Nitin Trikha also pre-deceased Rajesh Kumar Trikha and expired on 24.01.2002 (Ex PW 1/3).

7. An affidavit has been filed by the appellant No.4, Naresh Trikha that Nitin Trikha expired on 24.01.2002 and was unmarried and did not have any children. It is stated that the mother of the deceased, Smt. Bimla Trikha expired on 06.04.1994. Accordingly, on the death of Rajesh Kumar Trikha i.e. on 14.04.2015, there were no class-I legal heir surviving and only class-II legal heirs surviving were the applicants, the brothers and sisters of the deceased.

8. An application was filed under Order XLI Rule 27 to place on record additional documents being CM. APPL. 5843/2021.

9. Appellants had contended that said documents were not produced as at the time when the proceedings were pending as there was no opposition or objection filed by anyone to the grant of succession certificate and the appellants were of the view that the additional documents may not be necessary for the purposes of adjudicating the dispute arising in the subject petition.

10. In view of the fact that the trial court seems to have taken a hyper technical view of the abbreviation of the name of the father of the deceased, the application under order XLI Rue 27 was allowed

and Appellants were directed to file produce further evidence by way of affidavit.

11. Dr. Naresh Trikha - Appellant No. 4 has filed additional evidence in the form of an affidavit. He has categorically deposed that their father and the deceased brother as well as the other siblings interchangeably used the name of their father as Sh. Shiv Sant Lal Trikha and Sh. S.L. Trikha, for short.

12. He has exhibited as Ex. PW4/2, the PAN Card issued by the Income Tax Department to the deceased Rajesh Kumar Trikha, where the name of the father has been mentioned as Sh. Shiv Sant Lal Trikha. The passport - Ex. PW4/3, issued to Rajesh Kumar Trikha on 22.06.1976 mentions the name of the father as S. L. Trikha. The Ration Card (Ex. PW4/4) issued to the deceased brother Rajesh Kumar Trikha on 16.06.2005 mentions the name of the father as Sh. Shiv Sant Lal Trikha.

13. In the electricity connection, the name of the father is mentioned as Shiv Sant Lal Trikha. The application and the consent form are exhibited as Ex. PW4/5. In the passbook of the saving bank account (Ex. PW4/6) of Sh. Rajesh Kumar Trikha, the name of his father is recorded as S. L. Trikha.

14. Ex. PW4/7 is the passbook of National and Grindlays Bank

Limited of the father of the parties where his name has been mentioned both as *S. L Trikha* and *Shivsant Lal Trikha*. The fact that name in the pass book is mentioned as *Shivsant Lal Trikha* shows that his first name was *'Shivsant'* and not *'Shiv Sant'* as two words. So, the abbreviation of his name would be *S. L. Trikha* and not *S.S.L Trikha* as erroneously observed by the trial court.

15. The arms licence (Ex. PW4/8) issued to Rajesh Kumar Trikha mentions the name of his father S. L. Trikha. Photocopy of Aadhar card of Rajesh Kumar Trikha been produced which has been marked as 'A' which shows the name of his father as S. L. Trikha.

16. Deponent has further deposed that their mother pre-deceased Rajesh Kumar Trikha and expired on 06.04.1994. Special Death Certificate No. 21520 issued by Government of Union Territory of Delhi has been marked as exhibited 'D'.

17. Appellants have also produced the *Pujari* of Dayanand Mukti Dham Nizamuddin, Lodhi Road Cremation Ground to prove that the father of the parties expired on 19.05.1988 and was cremated on 20.05.1988. Documents pertaining to the same were marked as Ex. PW7/1.

18. Clearly in view of the further documents that have been produced, the apprehension expressed by the trial court in the

impugned order that the abbreviation of name Shiv Sant Lal Trikha would be as S.S.L. Trikha and not S.L. Trikha, has been completely answered.

19. Appellants have proved that Sh. Rajesh Kumar Trikha was their brother and son of Sh. Shiv Sant Lal Trikha also known as Sh. S.L. Trikha. They have proved that Rajesh Kumar Trikha, who was ordinarily resident of Delhi, died in Delhi on 14.04.2015 (Ex PW 1/1) intestate without leaving any will.

20. In view of the above, the impugned order is not sustainable and is accordingly set aside.

21. Appellants have proved their relationship with the deceased and that there was no Class – I legal heir surviving at the time of his death on 14.04.2015 and they being the brothers and sisters of Sh. Rajesh Kumar Trikha were the only class-II legal heirs surviving and that there is no other impediment to grant of a succession certificate.

22. Consequently, appellants are held entitled to grant of a succession certificate under Section 372 of the Indian Succession Act in respect of the debts and securities of Late Sh. Rajesh Kumar Trikha.

23. The petition filed by the appellants under Section 372 of the Indian Succession Act for grant of a succession certificate is

accordingly allowed.

24. Registry of this court is directed to take further consequential steps towards the issuance of the succession certificate.

25. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

**SANJEEV SACHDEVA, J**

**JANUARY 21, 2022/'*rs*'**