

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

Reserved on: 18.04.2023

Date of decision: 23.05.2023

+ **TEST.CAS. 15/2022**

DR VIJAY ARORA

..... Petitioner

Through: Ms.Seema Seth, Adv.

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr.Divyam Nandrajog, Panel
counsel, GNCTD with
Mr.Mayank Kumar, Adv. for
R1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

1. The present petition has been filed by the petitioner under Section 276 of the Indian Succession Act, 1925 (herein referred to as the 'Act') seeking grant of Probate/Letters of Administration of the Will dated 02.09.2012 and Holographic Codicil dated 31.03.2018 inscribed on the reverse, left behind by Dr. (Mrs.) Santosh Chawla (hereinafter referred to as the 'Testatrix')

2. It is alleged that the Testatrix ordinarily resided at E-338, East of Kailash, New Delhi-110065, and passed away on 24.08.2021. She was pre-deceased by her husband, Justice Tejinder Pal Chawla, who passed away on 17.10.2006. It is stated that the subject Will and Codicil have been executed by the Testatrix at New Delhi.

3. The Testatrix has not left behind any Class I Legal Heir. Dr. Daljeet Kimberley Chawla is her Class II Legal Heir, being the daughter of her deceased husband's deceased brother. The petition is

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accompanied with her affidavit giving her No Objection to the grant of Letters of Administration to the petitioner.

4. The petitioner is the named executor and one of the beneficiaries of the subject Will and Codicil.

5. It is further stated that during her lifetime, the Testatrix had executed the subject Will and the Codicil in respect of her moveable and immoveable properties, in the presence of two Attesting Witnesses, as mentioned hereinbelow:

a) HMJ (Retired) Sudershan Kumar Misra

b) Sh. Manjit Singh

6. The petitioner, in paragraph 5 of the petition, also gives the details of the immoveable and moveable properties of the Testatrix annexed as Schedule I. In the same paragraph, the petitioner has also given the liability of the Testatrix payable to the Government of India towards Income Tax payable for the Assessment Year 2021-2022 amounting to Rs. 94,900/-, which is annexed as Schedule II.

7. By the order dated 08.02.2022, notice was issued in the present petition. Citation was also directed to be published in 'The Statesman' (English Version) and in 'Navbharat Times' (Hindi Version). Citations were duly published on 14.03.2022.

8. No objections have been filed to the petition.

9. The valuation report in respect of the property bearing no. E-338, East of Kailash, New Delhi has been filed by the respondent no. 1 on 02.08.2022.

10. The petitioner in support of his case has examined four witnesses.

11. The petitioner examined himself as PW1. His affidavit by way of evidence was tendered on 14.11.2022. Apart from stating the facts

and averments made in the petition, the petitioner has proved the following documents: -

- a) Copy of the Will dated 02.09.2012 executed by Dr. (Mrs.) Santosh Chawla (Ex. P-1)
- b) Copy of the Codicil dated 31.03.2018 executed by Dr. (Mrs.) Santosh Chawla (Ex. P-2)
- c) Copy of the Death Certificate of Late Justice Sh. Tajinder Pal Singh Chawla (Ex. P-3)
- d) Copy of Letter dated 13.12.2021 to HDFC Bank, Greater Kailash, New Delhi (Ex. P-3)
- e) Copy of the Reply dated 18.12.2021 by HDFC Bank, Greater Kailash, New Delhi (Ex. P-4)
- f) Affidavit of No-Objection by Dr. Daljeet Kimberley Chawla (Ex. P-5)
- g) Copy of Valuation Report filed by the respondent in respect of Schedule I of immoveable assets (Ex. P-6)
- h) Copy of Death Certificate of Dr. (Mrs.) Santosh Chawla from the official website of South Delhi Municipal Corporation (Ex. P-7)

12. PW-2, HMJ (Retired) Sudershan Kumar Misra, is the Attesting Witness, who was examined through VC, and has approved the Will dated 02.09.2012 (Ex.P-1) and Codicil dated 31.03.2018 (Ex.P-2) inscribed on the reverse, and has identified the signature of the Testatrix, his own signatures, and the signature of Mr. Manjit Singh, the other Attesting Witness, on the subject Will and Codicil and further stated that the Testatrix, himself and Mr. Manjit Singh signed the Will and the Codicil in presence of each other.

13. PW-3, Mr. Manjit Singh, the second attesting witness, has filed evidence by way of affidavit and his statement has also been recorded on 13.12.2022. He has corroborated the testimony of PW-2.

14. Mr. Raj Kumar, Personal Banker in HDFC Bank, DP Services was examined as PW-4 on 17.02.2023. The witness brought the record of the accounts in the name of the Testatrix, Ex. PW4/B and Ex. PW4/C.

15. From the evidence, it is proved that the Testatrix, Dr. (Mrs.) Santosh Chawla, died on 24.08.2021. Her Death Certificate is exhibited as Ex.P-7. The subject Will and Codicil has been proved through the Attesting Witnesses, HMJ (Retired) Sudershan Kumar Misra (PW2) and Mr. Manjit Singh (PW3).

16. Accordingly, the petition is allowed in favour of the petitioner. Subject to the petitioner filing the requisite Court Fees, Letters of Administration are granted in favour of the petitioner in respect of the Will dated 02.09.2012 (Ex.P-1) and Holographic Codicil dated 31.03.2018 (Ex.P-2) inscribed on the reverse, left behind by Dr. (Mrs.) Santosh Chawla.

17. The petitioner is granted liberty to apply for the original documents filed in the petition.

NAVIN CHAWLA, J

MAY 23, 2023
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