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

% *Date of Decision: 29th August, 2023*

+ TEST.CAS. 17/2021

OM PRAKASH AGGARWAL Petitioner
Through: Mr. G.S. Gangwar and
Mr. Umang Gangwar, Advocates.

versus

GOVT OF NCT & ORS. Respondents
Through: Mr. Shyam Sunder, Advocate
for R-2 to 5.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present petition has been filed under Section 276 of the Indian Succession Act, 1925 (hereinafter referred to as 'the Act') for grant of probate of the Will dated 12.08.2020, executed by late Smt. Abhilasha Aggarwal W/o Sh. Om Prakash Aggarwal, in favour of the Petitioner.
2. Learned counsel appearing on behalf of Respondent Nos. 2 to 5 submits that he has no objection to the grant of probate as sought in the present petition.
3. It is stated in the petition that late Smt. Abhilasha Aggarwal died on 27.09.2020 due to cardiac arrest and is survived by her husband, the Petitioner herein, one son, daughter-in-law and two daughters, who are Respondents No. 2 to 5 herein. Pedigree chart of the family has been provided in paragraph 3 of the petition in a tabular form. Late Smt. Abhilasha Aggarwal left behind various movable and



immovable properties and appointed Sh. Om Prakash Aggarwal, the Petitioner herein as an executor of the Will. Details of the properties are referred to and mentioned in the Will. Upon notice being issued in the present petition on 01.03.2021, citation was directed to be published in The Hindu (English Edition) and Rashtriya Sahara (Hindi Edition) on 26.03.2021 and was duly published but no objection has been received from any person. Valuation report in respect of the properties has been filed by the State and is as follows:-

- (i) Property No. Plot No. 20, Road No. 78, Punjabi Bagh (West), New Delhi-110026 - Rs. 13,67,25,669/-
- (ii) Property at Village Nathupur, Sonipat – Rs. 1,46,55,625/-
- (iii) Property at Village Nathupur, Sonipat – Rs. 1,15,78,125/-

4. Will was executed in presence of two attesting witnesses, namely, Sh. Devesh Parekh and Sh. Arvind Kumar Sharma. Children of the testatrix, Respondent Nos. 2 to 5, have filed an affidavit that they have no objection to the grant of probate in favour of the Petitioner. In support of his case, Petitioner tendered his evidence as PW-1 and examined one of the two attesting witnesses as PW-2 on 16.03.2023. On the same day, the original Will dated 12.08.2020 was brought from the Registry in a sealed envelope and was shown to PW-2 and exhibited as PW-2/1. The attesting witness, namely, Sh. Devesh Parekh has not only identified the signatures of the testatrix on the Will but also categorically stated that he had put his signatures on the Will in the presence of the testatrix. The attesting witness also deposed that the testatrix signed the Will in his presence. Section 68 of the Indian Evidence Act, 1872 requires the Will to be proved at least by one of the attesting witnesses and in the present case this



requirement stands duly fulfilled.

5. In light of the unchallenged, un rebutted and uncontested testimony of the Petitioner, which is duly supported by the testimony of one of the two attesting witnesses, this Court is of the opinion that Petitioner has been able to prove the Will dated 12.08.2020, executed by the testatrix and being the executor, Petitioner is entitled to be granted the probate in his favour.

6. Petition is accordingly allowed, directing the Petitioner to file the requisite court fees, subject to which probate of the Will dated 12.08.2020 be issued in his favour. Since the petition is uncontested, Petitioner is exempted from furnishing the administration and surety bonds and is directed to furnish personal bond in the sum of Rs.10,000/- to the satisfaction of the Registrar General of this Court or an indemnity bond.

7. List before the concerned Registrar on 18.09.2023 for further modalities.

8. The original Will will be retained by the Court in terms of Chapter 7 Volume II of the Delhi High Court (Practice and Procedure) Rules and it is open to the Petitioner to apply for a certified copy.

9. Petition stands disposed of with the aforesaid directions.

JYOTI SINGH, J

AUGUST 29, 2023/kd/kks