



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 31st October, 2023

Pronounced on: 1st December, 2023

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TEST.CAS. 21/2019 & IA 13149/2019

PUJA JAISWAL

..... Petitioner

Through: Mr. Diwan Singh Chauhan, Advocate.

versus

STATE & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The petitioner, Smt. Puja Jaiswal, , has filed the present petition under Section 276 of the Indian Succession Act, 1923 for grant of Probate in respect of Will dated 24th March, 2015 executed by her sister Late Gunwant Dara, in which she is one of the beneficiary.

2. The petitioner has stated that the deceased Ms. Gunwant Dara was a lawyer and was practicing in Supreme Court of India. She was the sole and absolute owner of immovable property bearing No.IB/26, Princeton Estate, DLF City, Phase V, Gurugram, Haryana (hereinafter referred to as “*suit property*”) being a self acquired property. Aside from this, she had following movable assets :

(i) Term Deposit Advise bearing No. 37720941504 for Rs.

5,00,000/- date of issue 28.05.2018, date of maturity



13.07.2018 issued from State Bank of India, South Extension, Part-11, New Delhi;

(ii) Deposit receipt No. 1218302 dated 16.05.2018 for Rs. 3,02,174/- issued from UCO Bank, Supreme Court Compound, New Delhi;

(iii) FDR receipt No. 022120 dated 28.03.2013 for Rs.3,00,000/- date of maturity 22.12.2015, issued from UCO Bank, Supreme Court Compound, New Delhi;

(iv) Saving Bank account bearing No.02070100012409 UCO Bank, Supreme Court Compound, New Delhi for Rs. 5,31,115/-;

(v) Rs. 22,17,000/- in respect of the professional fee bill lying with the Central Law Agency, Supreme Court of India, New Delhi;

(vi) Lockers with UCO Bank, Supreme Court of India, New Delhi; and

(vii) Account with State Bank of India, NDSE Part-II, New Delhi bearing No. 30672904145 and Defence Colony, bearing No. 10617058118.

3. During her life time, Ms. Gunwant Dara executed her last Will dated 24th March, 2015, whereby she bequeathed the suit property as well as the movable assets in favour of respondent No.2 and 3 and an amount equivalent to US \$25000 in favour of the executrix/ petitioner. Ms. Gunwant Dara died on 04th October, 2018 and is survived by petitioner and respondent No.4 as her class-I heirs being her sisters. Respondent no.2 and



3 are the beneficiary under the Will being the nephew and niece of the deceased. A prayer is, therefore, made that a Probate in respect of the last Will dated 24th March, 205 of Late Ms. Gunwant Dara may be granted and all the movable and immovable assets may be transferred in terms of the last Will.

4. Citation was published in daily newspaper 'Dainik Bhaskar' on 06.04.2019 and 'India Express' on 03.04.2019.

5. **The respondent No.2 Arjun Jaiswal** (son of the petitioner), respondent No.3 Ms. Parul Jaiswal (daughter of the petitioner) and respondent No.4 Ms. Surinder Sharma (sister of the petitioner) gave their 'No Objection Certificate' in favour of the petitioner Smt. Puja Jaiswal for grant probate in her favour.

6. **The Valuation Report** was submitted by Tehsildar, Wazirabad, District Gurugram, Haryana in respect of the suit property *"that the value of property bearing No.1B/26, Princeton Estate, DLF City, Phase-V, gurugram-122009 can be valued @ 9,000/- per Sq feet as per Collector Rate for the Year 2022"*.

7. The petitioner to prove the Will examined herself as PW1 and proved the execution of original Will of Ms. Gunwant Dara which is Ex.PW1/1. She also proved her original Death Certificate as Ex/PW 1/7, the Identity Card, PAN Card and Aadhar Card of the deceased as Ex.PW1/2 to Ex.PW1/4 respectively. Letter of Allotment is Ex.PW1/5 and Letter dated 04.12.2018 for surrender of the chamber is Ex.PW1/6. The Conveyance Deed and Possession Letter of the immovable property in Gurugram, Haryana are Ex.PW1/8 and Ex.PW1/9 respectively. The House Tax Notice dated 31.12.2017 is Ex.PW1/10. The copy of the Term Deposit Advise issued



from State Bank of India, South Extension, Part-II is Ex.PW1/11. The Deposit receipt issued from UCO Bank, Supreme Court Compound is Ex.PW1/12, copy of FDR receipt dated 28.03.2023 is Ex.PW1/13. Pass Book of Saving Bank Account with UCO Bank, supreme court compound is Ex.PW1/14. Copy of statement of Account with Standard Chartered Bank is Ex.PW1/15. The details of movable and immovable properties mentioned in Schedule-B is Ex.PW1/16. The list of legal heirs mentioned in schedule-A is Ex.PW1/17. The 'No Objection' given by the other legal heirs and beneficiaries for the grant of Probate in respect of Will dated 24.03.2015 are Ex.PW1/18 and Ex.PW1/19.

8. **PW2 Smt. Sudha Gupta**, one of the attesting witness to the Will dated 24.03.2015 of Ms. Gunwant Dara, Ex.PW1/1. She deposed that she was one of the witnesses to the Will i.e. Ex.PW1/1 and also identified signatures of Late Ms. Gunwant Dara at point A. She also identified her signature at point C and of the other witness Ms. Sunita at point D. She deposed that the Will was signed by the deceased and the other attesting witnesses in her presence.

9. **Submissions heard.**

10. The mode for execution of Will is provided under Section 63(c) of the Indian Succession Act, 1925 which reads as under :

“63. Execution of unprivileged wills – Every testator, not being a soldier employed in an expedition or engaged in actual warfare, I[or an airman so employed or engaged] or a mariner at sea, shall execute his will according to the following rules:-

*(a)– (b)****



(b) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.”

11. The conditions for execution of a Will, as per the mandate of **Clause (c) of Section 63**, is that it must be attested by two or more witnesses, each of whom should have seen the testator sign or put his mark on the Will. The Will must be signed by the witnesses in the presence of the testator, but it is not necessary that more than one witness should be present at the same time.

12. The uncontested testimony of the petitioner has proved the Will exhibited as Ex.PW1/1 as the last and final Will of deceased Ms. Gunwant Dara. The petitioner is named as the Executor in the Will.

13. **Section 68 of Indian Evidence Act** further provides the mode of proof of the Will and requires that atleast one attesting witness to the Will must be examined. Accordingly PW2 Smt. Sudha Gupta the attesting witness has been examined, who has deposed that the Will was signed by the testator Late Ms. Gunwant Dara in her presence and in the presence of other attesting witness and that she and the other attesting witness had signed the Will in presence of each other.

14. The testimony of the petitioner as well as of PW2/Sudha Gupta, the attesting witness has not been subjected to any cross-examination. Rather the respondents have given their ‘No Objection’ to grant of the Probate in



favour of the petitioner. The petition is not contested by respondent Nos. 2, 3 and 4, who are the beneficiaries under the Will. Also, no objection has been received from any third person, pursuant to the citation.

15. The unchallenged and unrebutted testimony of the petitioner as PW-1 who is supported by the testimony of attesting witness namely PW2 Smt. Sudha Gupta proves the genuineness and the authenticity of the Will dated 24th March, 2015 of Late Ms. Gunwant Dara which is hereby held to be proved.

16. Probate in respect of the Will dated 24th March, 2015 is hereby granted to the Petitioner, who is also the named Executor, subject to payment of requisite court fees.

17. Petitioner shall furnish Administrative Bond with one Surety to the satisfaction of the learned Joint Registrar General of this court.

18. The valuation filed by the Tehsildar concerned, is on record.

19. On payment of the requisite court fee and other formalities noted above, the Probate in respect of the Will dated 24th March, 2015 shall be issued by the Registry.

20. The petition stands allowed and accordingly disposed of in the above terms.

21. List before the Joint Registrar on 14th December, 2023 for depositing of the bond.

**(NEENA BANSAL KRISHNA)
JUDGE**

DECEMBER 1, 2023/va