

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

Reserved on: 17.03.2023

Date of decision: 06.04.2023

+ **TEST.CAS. 55/2022**

OM PRAKASH BHARGAVA Petitioner

Through: Mr. Ankur Goel, Adv.

Versus

STATE & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

1. The present petition has been filed under Section 276 of the Indian Succession Act, 1925, seeking grant of Letter of Administration in respect of the Share Certificate and immovable assets of Late Smt. Nisha Bhargava (hereinafter referred to as 'the deceased'), including Flat No. A-31 and A-32, Rameshwar Darshan Society, 4 Bungalow, Andheri West, Mumbai (hereinafter referred to as the 'flats').

2. It is alleged that the deceased was ordinarily a resident of Delhi and died on 29.04.2020 at Delhi.

3. It is further stated that at the time of her death, the deceased left behind four Legal Heirs, namely, Mr. Om Prakash Bhargava (husband) –the petitioner herein; Mr. Jitin Bhargava (son)– respondent no.2 herein; and, Smt. Priya Bhargava and Mrs. Chabi Bhargava (daughters) – respondent nos. 3 and 4 herein, respectively.

4. It is averred in the petition that the deceased, during her

Bhargava, and her husband, the petitioner herein. From the gifts received and her other savings, the deceased owned the abovementioned Flats.

5. It is stated that the deceased did not execute any Will.

6. The details of the properties allegedly left behind by the deceased have been filed as a Schedule to the petition.

7. It is stated that the deceased during her lifetime had submitted the title documents of the Flats as a security for the business loan of the petitioner. In order to release the documents, the HDFC Bank, vide letter/email dated 02.03.2022, has demanded a Letter of Administration. Hence, the present petition was filed.

8. Notice was issued in the petition on 30.05.2022. Citation was also directed to be published by the petitioner in 'The Statesman' (English Edition) and 'Nav Bharat Times' (Hindi Edition) in Delhi and Mumbai.

9. On the same date, valuation report in respect of the immovable suit properties situated in Mumbai was directed to be obtained from the concerned Sub-Divisional Magistrate (SDM). The said valuation report was filed on 24.08.2022.

10. In the order dated 22.08.2022 passed by the learned Joint Registrar (Judicial), it is recorded that the citations have been published on 18.07.2022. The learned counsel for respondent nos.2 to 4 also submitted that the respondent nos.2 to 4 do not oppose the grant of Letter of Administration in favour of the petitioner. The said respondents have later filed their Affidavits giving 'No Objection' to the grant of Letter of Administration to the petitioner.

11. Evidence by way of Affidavit of the petitioner (PW-1) was tendered on 28.02.2023. Apart from stating the facts and averments in the petition, PW-1 has produced the following documents:-

- a. Death Certificate of Late Smt. Nisha Bhargava (Ex.PW-1);
- b. Schedule of properties (Ex. PW-2);
- c. Copy of the letter/email dated 02.03.2022 issued by HDFC Bank (marked as Mark-A).

12. At the outset, it is noticed that the petitioner has not filed any document in support of the claim of the properties allegedly left behind by the deceased and as mentioned in the Schedule of Properties (Ex.PW-2). This Court, therefore, cannot issue a Letter of Administration specifying the estate of the deceased to which the Letter of Administration is issued.

13. At the same time, the petitioner has proved on record that the deceased was an ordinary resident of Delhi and, in fact, died in Delhi on 29.04.2020.

14. The petitioner is the husband of the deceased and, therefore, is a Class-I Legal Heir. The respondent nos.2 to 4, who are the other Class-I Legal Heirs of the deceased, have filed their affidavits expressing their 'No Objection' to the grant of Letter of Administration to the estate of the deceased to the petitioner. The petitioner claims that there is no other Class-I Legal Heir left behind by the deceased. As such, the present petition has been uncontested.

15. It is stated that the deceased died intestate.

16. In view of the above, the Letter of Administration to the estate of the deceased-Smt. Nisha Bhargava is granted in favour of the petitioner.

17. Registry is directed to issue the Letter of Administration for valuation report as filed on record and on paying the requisite Stamp Duty, etc., and also upon furnishing administration bond by the petitioner.

18. The petition is disposed of in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J

APRIL 06, 2023/KP

