

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

Reserved on: 20.04.2023

Date of decision: 23.05.2023

+ **TEST.CAS. 87/2021 & I.A. 1392/2023**

SHRI NIRANJAN MOOLCHANDANI & ORS. Petitioners

Through: Ms.Madhu Moolchandani, Adv.

versus

NCT OF DELHI & ORS.

..... Respondents

**Through: Mr.Divyam Nandrajog, Panel
Counsel for GNCTD with
Ms.Mahak Rankawat, Adv. for
R-1.**

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 and 372 of the Indian Succession Act, 1925 (hereinafter referred to as the 'Act') by the petitioners seeking grant of Letters of Administration and Succession Certificate in respect of the estate of the deceased Ms. Sarla Moolchandani (hereinafter referred to as 'the Deceased').

2. It is alleged that the deceased was a permanent resident of B-1/356, Janakpuri, New Delhi (hereinafter referred to as 'the subject property') and died on 20.01.2021.

3. It is the case of the petitioners that the deceased was the last surviving child of the five children of Late Shri Jairam Moolchandani and Smt. Devi Moolchandani, all of whom were unmarried and have died intestate.

4. It is averred in the petition that the petitioners are the paternal cousins and the only surviving heirs of the deceased, being the children of brothers and sister of Late Shri Jairam Moolchandani.

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 24.05.2023

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TEST.CAS. 87/2021

5. The assets and estate of the deceased in respect of which Letters of Administration and Succession Certificate is sought are given in paragraph 4 of the petition and are reproduced hereinbelow:

- 1) *Saving A/c 10502174564, State Bank of India, Janakpuri, New Delhi.*
- 2) *Saving A/c 10502166905, State Bank of India, Janakpuri, New Delhi.*
- 3) *PPF A/c 10502302134, State Bank Of India, Janakpuri, New Delhi.*
- 4) *Pension A/c 10502139619, State Bank Of India, Janakpuri, New Delhi*
- 5) *Saving A/c 3595330438, Central bank of India, Jankapuri, New Delhi.*
- 6) *Saving A/c 01051000010684, Punjab and Sind Bank, Janakpuri, New Delhi.*
- 7) *Saving A/c 1503000100369312, Punjab National Bank, Janakpuri, New Delhi.*
- 8) *Locker No. 223 in A/c no 6065 with Punjab and Sind bank, Janakpuri, New Delhi.*
- 9) *Locker No. 715 with Punjab National bank, Janakpuri, New Delhi.*
- 10) *Fixed Deposit for Rupees Ten Thousand with Punjab National bank Janakpuri, New Delhi.*
- 11) *Property No. B-1/356, Janakpuri West, New Delhi.*
- 12) *Any Other asset which may come to the knowledge of the applicants*

6. By the order dated 24.09.2021, notice was issued in the present petition. Citation was also directed to be published in Delhi edition of the 'Statesman', which was published on 17.10.2021. No objections have been filed to the petition by any person.

7. The valuation report with respect to the subject property was filed by the respondent no. 1.

8. The respondent nos.2 to 5 are the Banks that had been impleaded as *pro forma* respondents as the deceased held her Bank

Accounts with the said respondents. The respondent nos.2 to 5 have filed the valuation reports with respect to the Bank Accounts.

9. This Court by its order dated 24.03.2022, taking note of the fact that the present petition is uncontested, deleted the respondent Banks from the array of parties. It was further directed that no issues were required to be framed.

10. Subsequently, the petitioners filed an application under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 (in short, “the CPC”) praying for the appointment of a Local Commissioner to inspect and report the contents of Locker No. 223 with the Punjab and Sind Bank, Branch-Janakpuri and file a report along with valuation of the contents of the said Locker. The learned Local Commissioner was appointed vide order dated 24.11.2022.

11. The learned Local Commissioner by her report dated 04.12.2022, placed on record the contents of the Locker No. 223 along with the valuation, as assessed by the valuer appointed by the Bank.

12. Evidence by way of Affidavit of the petitioner no. 1 (PW-1) was tendered on 31.03.2022; by the petitioner no.2 (PW-2) on 29.03.2022; and by the petitioner no.3 (PW-3) on 31.03.2022. Apart from stating the facts and averments in the petition, the petitioners have stated that they are entitled to one-third share each in the deceased’s estate.

13. The learned counsel for the respondent no.1, the sole respondent, submitted that he does not wish to cross-examine PW-1, PW-2, and PW-3. The petitioners closed their evidence on 14.12.2022.

14. During the course of hearing on 05.01.2023, it was pointed out that the subject property was, in fact, in the name of the late brother of the deceased, Shri Anand J. Moolchandani. Thereafter, the learned counsel for the petitioners prayed for leave to amend the petition and

file an appropriate application, only to the extent of stating that the Letters of Administration of the subject property, owned by Shri Anand J. Moolchandani, be granted in favour of the petitioners, being the sole surviving heirs.

15. Thereafter, the petitioners filed an application seeking an amendment of the petition, wherein it is contended that Late Shri Anand J. Moolchandani, was unmarried and died intestate. He was survived by his two sisters, Ms. Meera and the deceased, Ms. Sarla Moolchandani, who have also passed away intestate. It is submitted that both the sisters were unmarried and except the petitioners herein, there are no other surviving heirs.

16. This Court vide its order dated 24.01.2023, directed the respondent to carry out an investigation into the contentions made in the application and file a report thereon.

17. In compliance, the report dated 18.04.2023 was filed on behalf of SDM (Dwarka). As per the report, the subject property was visited, and the property was found to be locked with nobody residing in the property. The report further states that on local enquiry in the neighborhood, resident of B-1/358, Janakpuri, New Delhi, Mr. Gyan Sagar Jain informed that he knew Anand J. Moolchandani and that after his death his two sisters, Ms. Meera and the deceased used to live in the subject property and after their death the subject property has been lying closed. He further stated that all four brothers and sisters were unmarried.

18. Be that as it may, as the present petition seeks Letters of Administration with respect to the estate left behind by the deceased, Ms. Sarla Moolchandani, who is stated to have died intestate leaving behind only the petitioners as her legal heirs, the said fact being

proven by the evidence of the petitioners, which remained uncontested, and the fact that no person has filed objections to the present petition, the petitioners are entitled to the Letter of Administration, as is prayed for.

19. Accordingly, the petition is allowed in favour of the petitioners. Subject to the petitioners filing the requisite Court Fees and furnishing requisite Administrative Bonds, Letter of Administration is granted in favour of the petitioners in respect of the estate left behind by Late Ms.Sarla Moolchandani.

NAVIN CHAWLA, J

MAY 23, 2023/KP



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