



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

% Date of Decision : 24.11.2023

+ **TEST.CAS. 80/2022**

IN THE MATTER OF:

SH. RAJINDER NATH GOEL & ORS. Petitioners

Through: Mr. Mohd. Shariq, Advocate

Versus

STATE (NCT OF DELHI) & ANR. Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

I.A. 14728/2022

1. Present application has been filed seeking condonation of delay of 15 days in re-filing the present petition.
2. For the reasons explained in the application, the same is allowed and delay of 15 days in re-filing the petition is condoned.
3. Application is disposed of.

TEST.CAS. 80/2022

1. The present petition has been instituted under Section 276 & 278 of the Indian Succession Act, 1925 whereby the petitioners seek grant of probate of the last and final Will executed on 27.05.2017 by Late Mrs. Krishna Goel (hereafter, '*the Will*').
2. The present petition has been preferred by the legal heirs comprising of husband, two sons and a grandson. During the pendency of the petition,



petitioner No.1/ Rajinder Nath Goel expired on 09.02.2023.

3. The petitioners claim that during her lifetime, the testatrix was the permanent resident of House No. J-21, RBI Enclave, Paschim Vihar, New Delhi-110063. She executed the Will thereby bequeathing the following moveable and immoveable properties in favour of the beneficiaries:

A. Immovable Assets/Properties:-

- i) *Built-up property bearing No. J-21, RBI Enclave, Pashchim Vihar, New Delhi- 110063.*

B. Movable Assets/ Properties:-

- i) *Fixed deposits, jewellery, mutual funds, shares, money in saving Bank Accounts as detailed in Annexure C.*

4. In the Will, testatrix has categorically stated that she was the absolute owner of the aforesaid moveable and immoveable assets. All the legal heirs as noted above, who are also the beneficiaries under the said Will, have jointly filed the present petition. Notice of the petition was issued to the State and the concerned SDM. Further, citations were directed to be published in two leading newspapers. In response to the citations, no member of public came forward and filed any objection.

5. Petitioner No.2 appeared and got himself examined as PW-1. During his testimony, he proved and exhibited the relied upon documents. The Will was exhibited as Ex.PW-1/2 and the Death Certificate of the testatrix was exhibited as Ex.PW-1/4. The death certificate of Mr. Rajinder Nath Goel was exhibited as Ex.PW-1/5. He further deposed that the testatrix was the exclusive and absolute owner of the immovable and movable properties as per Schedules 'B' and 'C' annexed with the petition. He further deposed that he alongwith Mr Sanjay Goel, Mrs. Kamal Gupta and Mr Rajesh Goel were the attesting witnesses to the Will.



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6. Mr. Rajesh Goel, the first attesting witness examined himself as PW-2 and stated that the testatrix had executed the Will in his presence as well as in the presence of another attesting witness namely, Mrs. Kamal Gupta. He identified the signatures of testatrix at Point C. He further deposed that he appended his signatures on the will in the presence of the testatrix and Mrs Kamal Gupta. He identified his signatures at point A and those of Mrs. Kamal Gupta at Point B.

7. Mrs. Kamal Gupta, the second attesting witness appeared as PW-3 and deposed that the testatrix had put her signatures in her presence at Point C on both the pages whereafter she put her own signature at Point B. She also identified the signatures of Mr. Rajesh Goel at Point A.

8. Both the attesting witnesses had also stated that at the time of execution of the Will that the testatrix was of sound health and disposing mind.

9. The petitioners have also examined other formal witnesses with respect to various bank accounts of the testatrix.

10. From the above, it is established that late Mrs. Krishna Goel had executed her last and final Will on 27.05.2017 which was duly attested by two other attesting witnesses namely, Mrs. Kamal Gupta and Mr. Rajesh Goel, both of whom appeared and proved the Will. It has also come on record that at the time of the execution of the Will, the testatrix was of sound health and disposing mind. Besides two independent witnesses, the Will was attested by both the sons who are the petitioners. The Will has not been opposed by any of the legal heirs or any other member of the public.

11. In the considered opinion of this Court, there is no impediment in allowing the petition, subject to petitioners furnishing the court fees and



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execution of administration and security bond.

12. The petition is accordingly disposed of.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 24, 2023

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