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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 26th May, 2023

+ TEST.CAS. 5/2022

LALIT KUMAR ARORA

..... Petitioner

Through: Mr. O.P. Gupta & Mr. Sanjeev
Kumar, Advocates

versus

THE STATE & ORS.

..... Respondents

Through: Mr. Divyam Nandrajog & Mr.
Jatin Dua, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

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I.A. No. _____/2023 (to be numbered) (under Diary No. 946162/2023)

1. Pursuant to the order dated 18.05.2023, the petitioner has filed an application under Order VI Rule 17 of Code of Civil Procedure, 1908 ["CPC"] for amendment of the petition.
2. Although the application is not listed today, a copy has been handed over in Court and is taken on Board.
3. The Registry is directed to number the application.
4. The application for amendment is necessitated by the fact that the petition was originally filed for probate of the document dated

22.02.2012 stated to be the Will of the petitioner's father – Mr. Kherati Lal Arora, whereas the petitioner is not the executor named in the Will. As probate cannot be granted to the petitioner in view of Section 222 of the Indian Succession Act, 1925, the petitioner has filed the present application for an amendment to the effect that he be granted the Letters of Administration with the Will annexed. It is stated that the error has occurred by inadvertence.

5. The testamentary proceedings are uncontested. It appears that the evidence led by the parties is also adequate to dispose of the petition for Letters of Administration.

6. In the interest of justice, and in view of the statements made in the application, it is allowed and the amended petition filed therein is taken on record.

7. The application stands disposed of.

TEST.CAS. 5/2022

1. The present petition has been filed for Letters of Administration in respect of a document dated 22.02.2012 stated to be the Will of the petitioner's late father – Mr. Kherati Lal Arora.

2. It is stated in the petition that Mr. Kherati Lal Arora died on 23.04.2021. The purported Will is a registered document. It is signed by the testator and by two witnesses namely, Mr. Tilak Gogia and Ms. Prerna Jain. There is no named executor stated in the Will.

3. The petition states that the testator's wife, Mrs. Urmila Rani had predeceased him. Other than the plaintiff, the testator is survived by

one son, Mr. Deepak Arora, and one daughter, Mrs. Renu Madan. A second son of the testator namely, Mr. Sunil Arora, also predeceased him. The wife and two daughters of late Mr. Sunil Arora namely- Mrs. Poonam Arora, Ms. Pooja Arora, Ms. Priyanka Arora have been arrayed as respondents in the present petition.

4. Notice was issued on 25.01.2022 and citations were also directed to be published in an English newspaper and a Hindi newspaper. The respondent Nos. 2, 3, 4, 5 and 6, being the other heirs of the testator, were present before the learned Joint Registrar on 04.05.2022 and stated that they will file their affidavits of no objection. The affidavits were filed on behalf of the said respondents on 01.06.2022 and have been placed on record. No other objections have been received pursuant to publication of citations.

5. The petitioner examined himself as PW-1 and one of the attesting witnesses namely, Mr. Tilak Gogia as PW-2.

6. The petitioner filed an affidavit dated 29.08.2022 by way of examination-in-chief. He exhibited the death certificates of the testator, Mrs. Urmila Rani (wife of the testator) and Mr. Sunil Arora (predeceased son of the testator) [Ex.PW-1/1 and Ex.PW-1/2 respectively]. The documents demonstrate that Mrs. Urmila Rani died on 10.06.2019 and Mr. Sunil Arora died on 05.03.2015, prior to the date of death of the testator.

7. The evidence adduced by the attesting witness, both by way of affidavit and by way of oral evidence, makes it clear that he had signed the original Will in the presence of the testator and Ms. Prerna

Jain, being the other attesting witness. The Will has been exhibited as Ex.PW-1/4. PW-2 has identified his own signature, as well as the signature of the other attesting witness and the signature and thumb impression of the testator.

8. In these circumstances, I do not find any impediment to grant of Letters of Administration with the Will annexed, in respect of the Will dated 22.02.2012 of Mr. Kherati Lal Arora.

9. As the petitioner is the sole beneficiary under the Will, following the judgments in *Sanjay Suri vs. State*¹, *Richa Pardeshi vs. State*², and *Rajesh Sinha vs. State*³, the requirement of furnishing an administration bond or surety is dispensed with.

10. The petition is disposed of with aforesaid directions.

MAY 26, 2023

‘vp/udit’/

PRATEEK JALAN, J

¹ 2003 SCC OnLine Del 966.

² 2012 SCC OnLine Del 2978.

³ 2015 SCC OnLine Del 9264.