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

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Date of Decision: 27.09.2023

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TEST.CAS. 29/2017**SHRI RAGHVENDRA PAL SINGH**

...Petitioner

Through: Mr. Rakesh Kumar Singh and
Ms.Sandhya Kukreti,
Advocates.

Versus

**COL. YASHWANT SINGH (RETD.)
AND ORS.**

....Respondents

Through: Mr. Abhinav Singh, Ms. Swega
Agarwal, Mr. Rajat M.
Dwivedi and Ms. Bhavi Garg,
Advocates for respondent No.1.**CORAM:****HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****ORDER**
(O R A L)

1. The present petition has been instituted under Section 276 of the Indian Succession Act, 1925 whereby the petitioner seeks grant of probate of the registered Will executed on 27.06.2013 and registered on 28.06.2013 (hereafter, '*the Will*') of his father *Late Shri Surendra Pal Singh* son of *Late Shri Mahindra Pal Singh* (hereafter, '*the Testator*').

2. Petitioner has claimed that the Testator was the permanent resident of 15, Babar Road, Near Bengali Market, New Delhi-110001. He expired on 07.05.2014 at Gandhi Dham, Gujarat. Prior to his death, he had executed his last Will thereby bequeathing the following immovable/movable assets exclusively in favour of his youngest son i.e., the petitioner to the exclusion

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of all other legal heirs:-

“A. Immovable assets/ properties:-

- (i) A House No.15- Babar Road, Near Bengali Market, New Delhi-110001, India.*
- (ii) A House/Flat No.H/18/13, Second Floor, Sector VII, Rohini, New Delhi, India.*
- (iii) A House bearing No.1/65, Old No.492 (1995) Gopal Niwas, Peer Punch Gali Mathura, Uttar Pradesh, India.*
- (iv) A House at Mohali Ki Paur, H-104-67 (Old No.605-464) ward No.5, Mathura, Uttar Pradesh, India.*

B. Movable Assets/Properties:-

- (i) Saving Bank Account No.438220418 maintained with the Indian Bank, Main Branch at G-1, Connaught Place, New Delhi-110001.*
- (ii) Saving Bank Account No.02161570000724 with HDFC Bank Ltd., Gandhi Nagar, Kachch, Gujarat, 370201.*
- (iii) Delhi Cloth Mill Delhi shares in the name of my late father Shri Mahendra Pal Singh.*
- (iv) Other shares of subsidiary companies of DCM, Delhi...”*

3. In the Will, the Testator categorically stated that he was the absolute owner of all the immovable and movable assets. The Testator is survived by following legal heirs:-

- (i) Retd. Co. Yashwant Singh (respondent No.1)*
- (ii) Smt. Sushma Singh (respondent No.2)*
- (iii) Dr. Devendra Pal Singh (respondent No.3)*
- (iv) Smt. Kusum Singh (respondent No.4)*
- (v) Shri. Raghvendra Pal Singh (petitioner)*

4. Petitioner has further averred that the Testator has appointed the petitioner as the Sole Executor under the Will.

5. Notice of the petition was issued to all the legal heirs who have been impleaded as respondent Nos. 1 to 4. All the respondents were duly served however, they preferred not to appear. The petitioner has filed the No



Objection Certificates issued by all of them along with his evidence by way of affidavit. In the No Objection Certificates, all the respondents have admitted to the receipt of summons in the petition. They have further stated that they were aware of the Will left by their father and have no objection to the grant of Probate in favour of the petitioner with respect to the said Will. It is categorically stated that their affidavits containing No Objection was made voluntarily.

6. Petitioner appeared and got himself examined as PW-1. The Will was exhibited as PW-1/2 and the Death Certificate of the Testator as PW-1/4. The original copy of affidavits containing No Objection Certificates along with accompanying letters of respondent Nos.1 to 4 were exhibited as PW-1/6 to PW-1/13.

7. The Will was attested by two attesting witnesses, one of which was the Testator's daughter namely, Ms. Kusum Singh who is impleaded as respondent No.4. She appeared and got herself examined as PW-2. She deposed that the Testator had asked her to visit at his residence at 15, Babar Road, Bengali Market, New Delhi for witnessing his last Will. In her presence, as well as in presence of the other attesting witnesses – Mr. Vikash Singh, the Testator had put his signatures in English at Points X-1, X-2 and X-3 on the original Will, which were also identified by her. She further deposed that thereafter, she also put her signatures at Points Y-1, Y-2 and Y-3 on the original Will in the presence of the Testator as well as in the presence of the other attesting witness. She also deposed that at the time of execution, the Testator was in full sense and in sound reasonable health of his age and possessed complete sound mind. The Will was the final and last Will of the Testator.



8. The second attesting witness – Mr. Vikash Singh also appeared and testified as PW-3. He also stated that he was asked by the Testator to attest his last Will which he executed on 27.06.2013. He also deposed that in his presence as well as in presence of Ms. Kusum Singh, the Testator had put his signatures in English at Points X-1, X-2 and X-3, which were identified by him. He also deposed that the Will was attested by Ms. Kusum Singh. Lastly, it was deposed that at the time of execution and registration of the Will, the Testator was in full sense and of sound mind.

9. From above, it is established that *Late Shri Surendra Pal Singh* had executed his last and final Will on 27.06.2013 which was duly attested by the two attesting witnesses, namely, Ms. Kusum Singh and Mr. Vikash Singh. The Testator was in full sense and sound health. He possessed complete sound mind. The Will is attested by none other than one of the legal heirs, who is also not a beneficiary under the Will. The Will has not been opposed by any of the legal heirs or any other member of the public. Rather, the legal heirs have issued No Objection Certificates in favour of the petitioner.

10. In the considered opinion of this Court, there is no impediment in allowing the petition, subject to furnishing the court fees and execution of administration and security bond.

11. The petition is disposed of.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 27, 2023/rd