

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9138 OF 2024

Saumya Chetan Dogra

.. Petitioner

Versus

Renu Dogra & Anr.

.. Respondents

.....

- Mr. Subhash Jha a/w Ms. Neha Balani, Ms. Apeksha Sharma, Ms. Komal Thakur & Mr. Siddharth Jha i/by Law Juris for Petitioner
- Ms. Harshu Vaid for Respondents

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 8, 2024

P. C.:

1. Heard Mr. Jha, learned Advocate for Petitioner and Ms. Vaid, learned Advocate for Respondents.

2. Application filed by the Applicant (Petitioner herein) below Exh. 25 in Misc. Application No. 977 of 2023 seeking issuance of Letters of Administration under Section 218 read with Section 290 of the Indian Succession Act, 1925 stands rejected by the Trial Court. There is no discrepancy or objection with respect to the facts of the case and hence, for the sake of brevity, they are not repeated herein. For reference, the facts have been narrated briefly in paragraph No. 2 of the impugned order and they are understood by the Court.

3. The Application stands rejected on a specious ground that though the Applicant who herself is an executor of the Will of

deceased has led oral as well as documentary evidence on record and also placed and proved a copy of the Will, still and despite which it is held to be not proved by the learned Trial Court. It is seen that the Will is duly registered with the office of the Sub-Registrar, Thane 6 on 07.01.2014 under registration No. 135-214. Applicant in the principal proceedings pending before the Trial Court i.e. Misc. Application No. 977/2023 has examined herself and filed affidavit of evidence which has been taken on record and marked as Exh. 20. Reference to the said Will is contained in the said affidavit of evidence / claim. The Will is probated and placed on record as informed by Mr. Jha. The claim of the Applicant is that she is entitled to the entire share under the Will. Applicant is duly cross-examined. The evidence has been perused by the learned Trial Court as also the documentary evidence produced on record and it is held by the Trial Court that the Will is part of the evidence placed on record. Once that is the finding, then the conclusion arrived at by the learned Trial Court that Applicant has failed to prove the Will without giving any cogent reason cannot be accepted. In that view of the matter, the finding returned by the learned Trial Court in paragraph No. 6 of its judgment is unsustainable and deserves to be quashed and set aside. Resultantly the Application below Exh. 25 in Misc. Application No. 977/2023 stands allowed.

Letters of Administration be granted in favour of the Applicant in accordance with law.

4. It is clarified that grant of Letters of Administration shall not determine any right, title and entitlement of the Applicant in the property of the deceased as the connotation for granting of Letters of Administration is altogether different. It is granted to confirm the status of Applicant as legal heir of the deceased to administer the estate of the deceased and nothing more.

5. All concerned are directed to act on a server copy of this order.

6. Keeping all contentions of the parties open, Writ Petition stands allowed and disposed in the above terms.

Amberkar

[MILIND N. JADHAV, J.]

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