



O.P.No.395 of 2023

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A.A.NAKKIRAN, J.

This petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 read with Order XXV, Rule 4 of Original Side Rules, for the grant of Probate in respect of the last Will and Testament of the deceased Navalmal Rathore.

2.The case of the petitioner is that the petitioner is the executor named in the Will. The testator Navalmal Rathore died on 29.12.2005. His wife Sunder Bai died on 13.11.2013. The deceased testator executed his last Will and Testament dated 09.06.2005 while he was in sound state of mind. The petitioner, 2nd and 3rd respondents are the sons, and the respondents 1, 4 and 5 are the daughters of the testator. The deceased bequeathed the schedule mentioned property in favour of his first son namely Nirbhay Chand Jain, the 2nd respondent herein and he is the beneficiary. There is no other kin or persons interested who has to be impleaded. The amount of assets which is likely to come into the petitioner's hands does not



O.P.No.395 of 2023

exceed in the aggregate sum of Rs.1,20,00,000/- and the net amount of the assets, after deducting all items which the petitioner is by law allowed to deduct is of the value of Rs.1,20,00,000/-. The original Will was found in the month of May 2023 and immediately, the executor has filed this petition for probate of Will. Hence, there is a delay in applying for probate of Will. At the time of death, the deceased did not possess any gold jewellery as mentioned in the Will. The petitioner undertake to duly administer the property and credits of the deceased Navalmal Rathore and in any way concerning the Will by paying first his debts and then the legacies therein bequeathed so far as the assets will extend and to make a full and true inventory thereof to the Court within six months from the date of grant of Probate to the petitioner and also to render to this Court a true account of the said property and credits within one year from the said date.

3. The petitioner examined himself as P.W.1 and he had narrated the averments made in the petition stating that the petitioner has filed this petition for the grant of probate in favour of the 2nd respondent namely Nirbhay Chand Jain, in respect of the Last Will and Testament executed by



O.P.No.395 of 2023

the testator Navalmal Rathore on 09.06.2005. Ex.P.1 is the original Will executed by the testator. Ex.P.2 is the computer generated death certificate of the testator. Ex.P.2 has been filed to show that the testator Navalmal Rathore died on 29.12.2005. Ex.P3 is the computer generated death certificate of Mrs.Sunder Bai, who is the wife of the deceased testator. Ex.P4 is the photocopy of the legal heirship certificate of the deceased testator. Ex.P.5 and Ex.P7 have been filed to prove the assets of the testator. Ex.P.6 is the affidavit of assets showing the net value of the estate as Rs.1,20,00,000/-.

4. Mr.Mathiyalagan, one of the attesting witness, has been examined as P.W.2. He is the first attesting witness in the Will dated 09.06.2005 executed by the testator. In his evidence, he has stated that the testator executed his last Will and Testament on 09.06.2005 in his presence and in the presence of one Champalal. At the request of the testator, they have subscribed their signatures in the presence of the testator. He has further deposed that while executing the Will, the testator was in a sound and disposing state of mind and in his presence the attesting witnesses



O.P.No.395 of 2023

subscribed their signature in the Will. The affidavit of the attesting witness is marked as Ex.P.8. The evidence of P.W.1 and P.W.2 not only prove execution but also attestation of the Will and there is no other materials to suspect the Will.

5. In view of the above facts, I am of the view that the petitioner has proved the execution and attestation of the Will. Hence, the petitioner is entitled for the issuance of probate in favour of the 2nd respondent.

6. The Original Petition is ordered. Grant probate of the Will in respect of the 2nd respondent.

01.02.2024

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