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

Date of decision: 30th August, 2024

+ TEST.CAS. 27/2023 & I.A. 8417/2023, I.A. 2425/2024

SANJAY KUMAR KAMRAPetitioner

Through: Mr. Priyam Kamra, Adv.

Versus

STATE AND ORSRespondents

Through: Mr. Mr. Pratik Malik, Adv. for R-2 to R-4

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present petition under Section 276 of the Indian Succession Act, 1925 ('Act of 1925'), had been instituted for grant of probate in respect of the Will registered on 26th February, 2013 ('the said Will'). The Will has been authored by late Shri. K.L. Pruthi ('Testator') and stands duly registered with Sub- Registrar II, Janakpuri, bearing registration No. 333 in Book No. 3, Volume No. 8,030, on pages 40 to 41.

2. In terms thereof, the Testator has made a bequest of property bearing No. A-40, Vikas Puri, New Delhi – 110018 ('subject property') in favour of the Petitioner herein. The Petitioner is the main executor in the Will. The Certified Copy of the said Will has been filed with the petition in



compliance to the Section 276 of the Act of 1925 and the Original of the aforesaid Will is in custody of the Petitioner as stated by him in his evidence affidavit dated 20.12.2023.

3. For the purpose of disposal of the present petition, the following essential facts alone need to be noticed. Petitioner herein, is the brother-in-law of the Testator, Shri. K.L Pruthi who died on 20th March, 2021 at his residence 171, Rajdhani Enclave, Pitampura, New Delhi - 110034 leaving behind his wife, Mrs. Sudershan Pruthi-Respondent No. 2 herein, and two children, namely, Mrs. Shefali Arora and Mr. Ankur Pruthi, Respondent Nos. 3 and 4 herein respectively.

4. Insofar as the subject property which stands bequeathed in terms of the said Will is concerned, it is stated that it was a self-acquired property of the Testator, which was purchased through a Conveyance Deed dated 30th March, 1999 registered with the office of Sub Registrar, Janakpuri bearing registration No. 2187 in Book No. I, Volume No. 9215, on page 80 to 81 on 6th April, 1999.

5. In terms of the order dated 1st February, 2024, SDM Vikaspuri through Tehsildar, Dwarka has filed a valuation report dated 15.04.2024 on 23.04.2024 in terms of which the value of the property has been assessed at Rs. 4,71,71,160/-, however, due to an inadvertent error in calculating the valuation, a revised valuation report dated 01.07.2024 was filed on 03.07.2024 by the Tehsildar, Dwarka in terms of which the value of the property has been assessed at Rs. 2,98,94,940/-.

6. The Respondent Nos. 2 – 4 have filed their respective Affidavits giving 'No Objection' for the probate of the said Will in the favour of the Petitioner. The same has been recorded in the order dated 29th August, 2023.



7. With this petition, affidavit of Mr. Mintu Kumar, attesting witness to the aforesaid Will dated 27th February, 2013 has been filed in compliance to Section 281 of the Act of 1925 and Rule 2 of Chapter XXIX of Delhi High Court (Original Side) Rules, 2018 ('Original Side Rules').

8. The matter was listed before this Court on 3rd July, 2024 where the Respondent No. 4 - Mr. Ankur Pruthi was present in person and admitted the validity of the Will dated 27th February, 2013 and execution of the 'No Objection' affidavit dated 21st January, 2023 filed by him in these proceedings; and stated that Respondent Nos. 2 and 3 are ready and willing to appear before the learned Joint Registrar (Judicial) through video conferencing for confirming the execution of their respective affidavits filed in support of the petition and the contents of the said affidavits admitting the said Will. Accordingly, this Court directed listing of this matter before learned Joint Registrar (Judicial) for recording of the statements of the Respondent Nos. 2 to 4 and the attesting witness Mr. Mintu Kumar.

9. In terms of the order dated 3rd July, 2024, statement of attesting witness, Mr. Mintu Kumar as well as Respondent nos. 2, 3 and 4 were recorded on 06th August, 2024. Mr. Mintu Kumar, Respondent nos. 2 and 4 appeared physically and Respondent no. 3 appeared through video conferencing.

10. In the statement of Mr. Mintu Kumar, he admitted witnessing the execution of the said Will and identified his signatures on the same as attesting witness. Similarly, the Respondents admitted the said Will. The relevant parts of the depositions of Respondent Nos. 2 to 4 and the attesting witness Mr. Mintu Kumar are reproduced hereinbelow: -

“Respondent No. 2 - Smt. Sudershan Pruthi



I am respondent no. 2 in this TEST.CAS. I am having no objection if the present TEST.CAS. is allowed in favour of the petitioner. I am having no dispute regarding the Will in question executed by my husband Late Mr. KL Pruthi.

I am making this statement voluntarily, freely and with my own free will without any pressure coercion etc.”

“Respondent No. 3 - Mrs. Shefali Arora

I am respondent no. 3 in this TEST.CAS. I am having no objection if the present TEST.CAS. is allowed in favour of the petitioner. I am having no dispute regarding the Will in question executed by my father Late Mr. KL Pruthi.

I am making this statement voluntarily, freely and with my own free will without any pressure coercion etc.”

“Respondent No. 4 -Mr. Ankur Pruthi

I am respondent no. 4 in this TEST.CAS. I am having no objection if the present TEST.CAS. is allowed in favour of the petitioner. I am having no dispute regarding the Will in question executed by my father Late Mr. KL Pruthi.

I am making this statement voluntarily, freely and with my own free will without any pressure coercion etc.”

“Mr. Mintu Kumar - Attesting witness

I am attesting witness on the Will in question executed by Late Sh. KL Pruthi. The said Will was executed in my presence. At the time of execution, Late Mr. KL Pruthi was having good health and sound mind. He executed the Will with his own free will, voluntarily and without any pressure. After reading the Will, I had put my signatures on the last page of the Will as witness No. 1. Mr. Santosh Kumar, another attesting witness, had signed in my presence as witness No. 2. Mr. KL Pruthi had also signed the said Will in my presence. I am having no objection if the TEST.CAS. is allowed in favour of the petitioner.”

11. From the aforementioned facts, it is apparent that the present probate proceedings have remained uncontested and that the execution of the aforesaid Will registered on 26th February, 2013 has been duly proved by the attesting witnesses thereto. Respondent Nos. 2 to 4 are the only Class-I legal heirs of the Testator and can be the only person claiming to have any caveatable interest in the estate of the Testator. In this regard, the Petitioner



has placed on record the Surviving Member Certificate no. 90660000144373 issued by GNCTD, which confirms that Respondent Nos. 2 to 4 are the only Class-I legal heirs.

12. The Court thus finds no impediment in the grant of probate on the present petition in terms of Section 276 of the Act of 1925 and Rule 6 of Chapter XXIX of Original Side Rules.

13. It may, additionally, be noted that the petitioner has sought exemption from filing an administration and surety bond on the ground that the probate petition has gone uncontested and the petitioner is named as the sole beneficiary. In this regard it would be apposite to refer to a judgement of the coordinate bench of this court passed in **Maninder Singh v. State**¹, wherein it was observed that the exemption from filing an administration and surety bond under section 291 of the Act of 1925 can be granted in the case where the property had been bequeathed in the favour of legal heir or a sole beneficiary. Bearing in mind principles enunciated therein this Court is of the view that the exemption as prayed for would be justified in law and in the facts of this case. The relevant para of the said judgment reads as under:

“8. There are a stream of cases, where having regard to the fact that the petitioners in testamentary cases where probate/letters of administration were sought in respect of the estate of the deceased, had been exempted from furnishing Surety Bond/Administration Bond on the ground that the will was in favour of the natural heirs and there was no contest to the request for grant of letters of administration/Probate. It was observed that where the petitioners/applicants were natural heirs/sole beneficiary of the deceased, any order directing the said petitioner(s) to stand as an administrator/surety of the estate of the deceased would amount to their/his standing surety for themselves/himself... ..”

¹ 2015 SCC OnLine Del 9265



14. Accordingly, the instant petition is allowed. Subject to the Petitioner filing the requisite court fee, probate along with a copy of the Will annexed shall stand granted in favour of the petitioner. The petitioner shall also stand exempted from executing or submitting any administration or surety bond.

15. Pending applications, if any stands disposed of.

MANMEET PRITAM SINGH ARORA, J

AUGUST 30, 2024/hp/AKT

Click here to check corrigendum, if any