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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 25/2020**

**NIRMALA MOHINDERPAL
LABHURAM CHATRATH**

..... Petitioner

Through: Mr. Sanjiv Bahl & Mr. Eklavya Bahl
Advts, (M. 9891122330)

versus

STATE & ORS.

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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25.01.2024

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Section 228 of the Indian Succession Act for grant of Letters of Administration (*hereinafter 'LOA'*).
3. The estate in question is that of Smt. Sita Rani Bahal who unfortunately passed away on 21st July, 1995. She had executed a Will dated 14th March, 1991. She was a resident of Kenya. The estate of the deceased included the property in Nairobi, Kenya and the following two properties:

“i) Property no. 7 A/2, W.E.A., Karol Bagh, New Delhi
ii) House No. 5815 at Shiv Nagar, Gali . No.2, Karol Bagh , New Delhi”
4. The first property being plot no. 7A/2, W.E.A., Karol Bagh, New Delhi was bequeathed to the Petitioner - Ms. Nirmala Mohinderpal Labhurat Chatrath and the second property was bequeathed in equal share to the second daughter and the son-in-law - Mrs. Sudhesh Bala and Mr. Kirtan Swaroop Sagar.
5. The case of the Petitioner is that the Will dated 14th March, 1991 has already been probated in Kenya. It is prayed on the strength of the said



probate that the Letters of Administration (LOA) be granted in respect of the Will dated 14th March, 1991.

6. Initially, notice was issued in this petition on 8th October, 2020 and citations were also published. On 16th April, 2021, the order of the Court records that Respondent Nos. 2 and 3 have been served, however, there is no appearance. The said order would be relevant and is set out below:

“This hearing is conducted through video-conferencing.

Respondents No. 2 and 3 are served. None has appeared for them. Learned counsel for the petitioner states that there is no conflict of interest between the petitioner and respondents No. 2 and 3. He also states that a probate has been granted by the appropriate court in Kenya.

Let an affidavit by way of evidence be filed within 8 weeks from today.

List on 08.09.2021.”

7. Ld. counsel for the Petitioner relies upon the decision of a ld. Single Judge of this Court in ***Mr. Mark Douglas Holford v. State, 2018: DHC: 6396.***

8. As per the above decision, the submission made is that there is no conflict or dispute between the Petitioner and Respondent Nos.2 and 3. The valuation report has been thereafter filed on record. The evidence of the power of attorney holder on behalf of the Petitioner, namely, Mr. Kirat Pal has been led as PW-1. The said witness has exhibited the special power of attorney dated 30th December, 2019. The said power of attorney is original and has also been exhibited as PW-1/1. The said special power of attorney has been executed by Ms. Nirmala Mohinderpal Labharam Chatrath who is also a resident of Kenya, has been executed in Mumbai and has been duly



notarized and placed on record. In support of the identity proof of the Petitioner, the passport copy has been attached. The Petitioner herself has a passport issued by the U.K. bearing no. GBR 74026150.

9. The witness who has appeared on behalf of the Petitioner has also exhibited the death certificate of Mrs. Sita Rani Bahal as PW-1/2. The said witness has also exhibited the certified copy of the Will dated 14th March, 1991 (Exhibit PW-1/3) and the certified copy of the order dated 12th March, 1996 (Exhibit PW-1/4) passed by the High Court in the Republic of Kenya. The Court has perused the said two certified copies and is satisfied that the evidence on record does show that the Will of the Petitioner's mother is genuine.

10. Considering the facts of this case, the documents placed on record and the pleadings as also the evidence, the Court grants Letters of Administration in respect of the Will dated 14th March, 1991, a certified copy of which has been placed on record, pertaining to the estate of Late Mrs. Sita Rani Bahal.

11. The Petitioner shall pay the requisite court fee in terms of the valuation reports which have been received from the concerned SDM and upon the deposit of the requisite fee, the LOA be issued in favour of the Petitioner.

12. Petition is accordingly disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

JANUARY 25, 2024

Rahul/am