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

*Date of decision: 2<sup>nd</sup> September, 2024*

+ TEST.CAS. 92/2022 & I.A. 17227/2022

MANOHAR LAL VERMA

.....Petitioner

Through: Mr. V.K. Sharma, Adv.

versus

THE STATE GOVT OF NCT OF DELHI & ORS. ....Respondents

Through: Mr. Onkar Singh, Adv. for R-2, 3 and 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 has been filed under Section 278 read with Section 274 of the Indian Succession Act, 1925 ('Act of 1925') for grant of letters of administration in respect of immovable property, i.e., Flat No. 106, Upper Ground Floor, L.I.G., (Back Side, without roof rights) located in Deep Apartments- 21, Plot No. A-1/5, DLF, Ankur Vihar, Hadbast Gram-Loni, Pargana-Loni, Tehsil and District Ghaziabad, Uttar Pradesh i.e., the subject property.
2. For the purpose of disposal of the present petition, the following essential facts alone need to be noticed
3. Late Smt. Bimla Verma was the absolute owner of the subject property *vide* sale deed dated 10.02.2014 registered in her name against



Book No.1, Vol. No. 26860 at page no. 97 to 128 against Registration No. 4183 with Sub-Registrar-IV of Ghaziabad.

4. Smt. Bimla Verma passed away on 15.10.2020. The death certificate dated 25.11.2020 has been placed on record, which records that she was resident of H. No. C-5/71, Near Atul Park, Yamuna Vihar, North-East, Delhi-110053 at the time of her death, and hence this Court has territorial jurisdiction to entertain and dispose of this petition.

5. It is stated in this petition that she died intestate and was survived by her husband, Mr. Manohar Lal Verma, the Petitioner herein and a son, Mr. Tarun Verma (Respondent No. 2) as well as two daughters i.e. Ms. Indu H. Varma (Respondent No. 3) and Ms. Bindu Pahwa (Respondent No. 4). It is stated that aforesaid four (4) persons are her only legal heirs as per Hindu Succession Act, 1956.

6. Notice in this petition was issued vide order dated 01.12.2022, which was accepted by the learned counsel for the Respondent No. 2 to 4, who stated before the Court that Respondent Nos. 2 to 4 have no objection to the prayer made in the present petition and that the present petition be allowed.

7. The Petitioner has also placed on record the No Objection Certificates ('NOCs') of Respondent No.2 dated 11.07.2022 and of Respondent Nos. 3 and 4's dated 11.06.2022 respectively.

8. In the order dated 22.05.2023 the Court recorded that citations were published in 'The Statesman' and 'Nav Bharat Times'. The Court further issued notice to the Sub-Divisional Magistrate (SDM) concerned for filing valuation report with respect to the subject property. The valuation report dated 16.07.2024 with respect to the subject property has been filed by



Respondent No.1 as recorded in the order dated 23.08.2024 and the value of the subject property recorded therein is Rs. 13,13,404/-.

9. It is a matter of record that no objection has been received from any party to the grant of letters of administration. Learned counsel for the Petitioner states that parties admit each of the four legal heirs are entitled to 1/4<sup>th</sup> share each in the subject property and the subject property will be administered by the Petitioner for the benefit of all the Class-I Legal Heirs. He states that it has become necessary to obtain the letters of administration so as to enable the Petitioner to deal with the subject property in a manner, which is beneficial to the legal heirs. He states that Petitioner undertakes that in case of sale of the property he will divide the sale proceed equally between the four Class I legal heirs.

10. In the facts noted above, where the Petitioner is one of the Class I-Legal Heir of the deceased and where all other Class-I Legal Heirs have given their no-objection to the prayers sought in the petition, there exists no impediment in grant of letters of administration in favour of the Petitioner *qua* the immovable property, i.e., Flat No. 106, Upper Ground Floor, L.I.G., (Back Side, without roof rights) located in Deep Apartments- 21, Plot No. A-1/5, DLF, Ankur Vihar, Hadbast Gram-Loni, Pargana-Loni, Tehsil and District Ghaziabad, Uttar Pradesh of the deceased mentioned in the petition and as recorded above in this order.

11. Next, learned counsel for the Petitioner contended that this Court should not insist upon the petitioner for furnishing an administration bond/surety bond for the administration of the estate late Smt. Bimla Verma in light of the fact that the present Petition is uncontested and NOCs have been given by all the other Class-I Legal Heir.



12. A co-joint reading of Section 219 and Section 375 of the Act of 1925 makes it apparently clear that the condition filing an administration bond is intended to indemnify or protect the interests of those who may be entitled to the entire or any part of the estate of the deceased. However, imposition of such mandate must be examined in light of facts of each case. Further a condition cannot be imposed arbitrarily, especially where the beneficiary is the sole beneficiary or in circumstances where the beneficiary is the natural heir and there are no objections by other entitled heirs.

13. This Court in catena of judgments and most recently in the case of **Arvind Nand v. State**<sup>1</sup> held as under:

10. *The settled case law, therefore, clearly lays down the following principles:*

(1) *The imposition of a condition for furnishing an indemnity/security is at the discretion of the Court.*

(2) **Whenever the Court is of the opinion that a condition is required to be imposed due to any debts and the fact that there is a possibility of other claimants raising claims, the condition may be imposed.**

(3) *In every case involving the grant of a succession certificate, a mechanical approach of imposing a condition for furnishing the surety/security and insisting on the indemnity bond is not required.*

(4) **When an exemption from filing any surety is sought, the Court has to consider the entire conspectus and exercise its discretion depending on the facts of each case, in accordance with law.**

(5) *As held by the ld. Division Bench of this Court in Rajesh Kumar Sharma (supra), the imposition of a condition is not mandatory.*

11. *In view of the above legal position, **the Petitioner, being the sole legal heir and beneficiary of his parent's estate, and there being no objections from any quarter, is exempted from furnishing a surety.** The succession certificate is directed to be issued expeditiously and, in any case, within a period of eight weeks from today.*

(Emphasis supplied)

14. A co-ordinate bench of this Court in **Richa Pardeshi v. State**<sup>2</sup> was dealing with a case similar to the facts of the present case, wherein the

<sup>1</sup> 2020: DHC:1457.

<sup>2</sup> 2012 SCC OnLine Del 2978.



petition was filed seeking grant of letters of administration *qua* the estate of deceased who died intestate. The petitioner therein sought an exemption from furnishing administrative bond being the sole beneficiary and legal heir to the estate of her late father. This Court while granting the relief sought for held as under:

13. Learned counsel for the petitioner submits, and **I think rightly so, that there is no reason why the enunciation of the law relating to aforesaid case dispensing with furnishing of administration/surety bond in the case of a sole beneficiary under a Will should not be made applicable to the case of a sole beneficiary upon whom the estate of the deceased devolves by intestate succession. The object of the law of Succession, be it testamentary or intestate in nature, is to enable the Court, to lend its seal of approval to the succession of the estate of the deceased. It is trite that the judgment given in the exercise of both testamentary and intestate succession is a judgment “in rem”.**

14. Indubitably, a greater degree of care is required in the case of intestate succession while appointing an administrator to take care of the estate of the deceased, but in all other respects the exercise of testamentary and intestate succession is predicated on the duty cast upon the Court to ensure that the estate of the deceased devolves in a proper manner upon the heirs of the deceased and is not frittered away. It is with this intentment that Section 291 of the Act requires furnishing of an administration bond both in the case of intestate succession and testamentary succession. As a matter of fact, the opening words of said Section are significant, which state “Every person to whom any grant of letters of administration, other than a grant under Section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.”

15. In view of the aforesaid, it is crystal clear that to hold that Section 291 envisages the furnishing of an administration bond by a sole beneficiary or a sole legatee would lead to absurd consequences, for, the said sole beneficiary/sole legatee would then be standing surety for the estate of the deceased, which has exclusively devolved upon him, and it would be paradoxical to hold that a person can stand surety for himself.

16. In the result, the petition is allowed by granting Letters of Administration in favour of the petitioner, Smt. Richa Pardeshi, exempting the petitioner from furnishing of an Administration Bond.

(Emphasis supplied)



15. In view of the law noted hereinabove, considering the fact that Petitioner is a Class I legal heir and has undertaken to deal with the property for the benefit of all the four Class I legal heirs; and keeping in view the no objection of all the Class I legal heirs, the Petitioner is exempted from filing Administration/Surety Bond. The Petitioner is however, bound down to his statement that in case of sale of the property he will divide the sale proceeds equally between the four Class I legal heirs and he shall at all times deal with the property in a manner which is beneficial for all the Class I legal heirs.

16. In view of the above the letters of administration of the property i.e., Flat No. 106, Upper Ground Floor, L.I.G., (Back Side, without roof rights) located in Deep Apartments- 21, Plot No. A-1/5, DLF, Ankur Vihar, Hadbast Gram-Loni, Pargana-Loni, Tehsil and District Ghaziabad, Uttar Pradesh ('subject property') are hereby granted in favour of the Petitioner. Registry is directed to issue letters of administration as per valuation report filed by the SDM concerned and on paying the requisite stamp duty and Court fee, if any.

17. In view of the above, the present petition is hereby allowed and pending application stands disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**SEPTEMBER 2, 2024/sk**

*Click here to check corrigendum, if any*