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

Date of decision: 18th September, 2024

+ TEST.CAS. 83/2023 & I.A. 4067/2024

SHUCHI SHARMA

.....Petitioner

Through: Mr. Nishant Das, Ms. Aatrayi Das
and Ms. Sanyya Pawar, Advocates.

versus

STATE OF NCT OF DELHI THROUGH THE COLLECTOR
DELHI & ORS.

.....Respondents

Through: Mr. Nubair Alvi, Advocate (through
VC) with Mr. Sanyam Saxena and
Ms. Ramya Aggarwal, Advocates for
R-3

Mr. Prasouk Jain and Ms. Shalini
Nair, Advocates for R-5 with Mr.
Abhijeet Singh, Manager
(Operations) and Mr. Tarun Bhatt,
(Legal) for respondent no.5.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T (ORAL)

1. The present petition has been filed under Section 278 of the Indian Succession Act, 1925 ('Act of 1925') for grant of Letters of Administration with respect to the estate of late Sh. Ruchin Khanduja which includes the following immovable properties: (i) Flat No. 56, Pushpanjali Apartments, Plot No. 10, Sector-4, Dwarka, New Delhi-110075 admeasuring 105.87 Sq. Yds. (Dwarka Property); (ii) Flat No. 305, Tower No. 28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida admeasuring 1779 Sq. Ft. of super area (this property is under construction) i.e., ('subject properties'). As per the



petition Letters of Administration are also sought with respect to the Current Account Nos. 0023973236 and 0052142229, which were opened in the name of late Sh. Ruchin Khanduja and are presently held with Respondent No. 5 Bank.

2. For the purpose of disposal of the present petition, the following essential facts alone need to be noticed.

3. Late Sh. Ruchin Khanduja was the husband of the Petitioner and father of Respondent No.2 i.e., Ms. Samaira Khanduja (Minor).

3.1 As per the averment in the petition, the Petitioner and Respondent No.2 are the only Class-I Legal Heirs of late Sh. Ruchin Khanduja who died intestate on 25.05.2023. As per death certificate dated 10.07.2023 placed on record late Sh. Ruchin Khanduja was residing at Flat No.56, Pushpanjali Apartments, Plot No. 10, Sector-4, Dwarka, New Delhi-110075 at the time of his death and, therefore, this Court has requisite territorial jurisdiction to entertain and dispose of this petition.

3.2 Late Sh. Ruchin Khanduja is further survived by his father Mr. Madan Gopal Khanduja and married sister, Mrs. Richa Khanduja and both of them are Class-II Legal Heirs of late Sh. Ruchin Khanduja.

3.3 It is stated that Respondent No.2, the only other Class-I Legal Heir is presently aged around 14 years (Minor) and is being represented through her mother Ms. Shuchi Sharma (i.e., the Petitioner herein) in the present proceedings. Petitioner is the natural guardian of Respondent No. 2 and is not claiming any interest adverse to Respondent No. 2 in these proceedings. The Petitioner, therefore, seeks grant of the letters of administration for the estate of the deceased.



4. It is stated that late Sh. Ruchin Khanduja was the absolute owner of the subject properties. The Petitioner relies upon the possession certificate dated 18.10.2004 issued by New Sweet Home Co-operative Group Housing Society Ltd. with respect to the Flat No. 56, Pushpanjali Apartments, Plot No. 10, Sector-4, Dwarka, New Delhi-110075 admeasuring 105.87 Sq. Yds and an allotment letter dated 02.02.2011 with respect to Flat No. 305, Tower No. 28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida admeasuring 1779 Sq. Ft. of super area. It is stated in the petition that late Sh. Ruchin Khanduja during his lifetime maintained two (2) current accounts with Respondent No.4 (now taken over by Respondent No.5), identified as account no. 0052142229 and account no. 0023973236.

5. Learned counsel for Petitioner states that no relief survives against Respondent No.4 in view of the loan having been taken over by Respondent No.5.

6. Pertinently, notice in this petition was issued on 19.10.2023 to Respondent Nos. 1, 3 and 5. Further the Court also issued notice to the Sub-Divisional Magistrates (SDMs) concerned to file the valuation reports and citations were also directed to be published by the Petitioner.

7. During the course of arguments, the learned counsel for the Petitioner has handed over a copy of an affidavit of service of publications filed vide diary no. 2057901/2023. A perusal of the said affidavit would evidence that the citations were published in 'The Statesman' and 'Punjab Kesari' on 07.11.2023 as directed by this Court.

8. As per record the SDM concerned has filed before this Court a valuation report dated 08.01.2024 with respect to the property bearing no.



Flat No. 56 Second Floor, Plot No. 10 Sector-04 Dwarka, New Delhi and the value of the suit property recorded therein is Rs. 1,28,98,236/-

8.1 Learned counsel for the Petitioner stated that with respect to the property bearing Flat No. 305, Tower No. 28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida admeasuring 1779 Sq. Ft. of super area, since the same is under construction and the valuation of the said property cannot be done. He states that as per the allotment letter dated 02.02.2011 issued qua the said property, the value of the said property is Rs. 67,64,560/-.

9. It is a matter of record that no objections have been received from any party to the grant of Letters of Administration in favour of the Petitioner. The Respondent No.5 had filed a written statement to the petition on 06.01.2024, wherein it was stated that there are charges on the suit properties qua four (4) loan accounts as mentioned in the table below:

S.No.	Loan No.	Amount Availed	Availed on	Pre-Closure Amount (as of 05.01.2024)
1.	142268	40,00,000/-	30.10.2019	30,28,846.99
2.	126537	50,00,444/-	23.03.2011	15,89,031.96
3.	143957	15,00,000/-	14.12.2021	14,07,563.00
4.	145181	53,00,000/-	24.04.2023	51,93,878.00

8.1. In its reply filed to the petition, Respondent No.5 has stated that current account no.0052142229 stands closed and the loan account no.126537 linked with the said account number also stands closed, since it stands re-paid.



8.2. It is stated that current account no.0023973236 is linked with three (3) loan account nos. i.e. 142268, 143957 and 145181, which are still active and an amount of Rs.68,85,548.19 approximately is due to be recovered from the estate of the borrower i.e., late Sh. Ruchin Khanduja.

8.3. Learned counsel for Respondent No. 5 states that immovable property at Dwarka property has been mortgaged by the borrower i.e., late Sh. Ruchin Khanduja for the repayment of the said active three (3) loan accounts. He states however, Respondent No.5 bank has no objection if the Letters of Administration are granted in favour of Petitioner herein subject to Respondent No.5 having a right to recover the outstanding dues *qua* the three (3) loan account numbers from the estate of the deceased.

10. Learned counsel for the Petitioner states that Petitioner will apply to Respondent No.5 bank within 15 days for foreclosure of the three (3) loan accounts and permit utilization of the amounts standing to the credit of current account no.0023973236 for repayment of the said loans. He states that Petitioner will also make a request for waiver of interest/penalty levied due to non-payment during the pendency of the present proceedings.

10.1 In reply, learned counsel for Respondent No.5 states, on instructions from Mr. Abhijeet Singh, Manager (Operations), Axis Bank that the request for foreclosure of loans will be duly processed within a period of two (2) weeks from the date of receipt of payment and the amount lying in current account no.0023973236 will also be permitted to be adjusted towards repayment of the loan.

10.2 He states that upon the repayment of the loans, title deed of the Plot No.10, Sector 4, Dwarka, New Delhi – 110075 and Flat No.305, Tower No.28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida shall be



released to the Petitioner within the said period of two (2) weeks.

11. The statements of the Petitioner and the Respondent No.5 are taken on record and they are bound down to the same. The Petitioner is at liberty to seek waiver of the interest/penalty and Respondent No. 5 is directed to consider the said request favourably considering that the delay in grant of letters of administration is not due to any fault of the Petitioner.

12. In the facts noted above, where the Petitioner is one of the Class-I-Legal Heir of the deceased and she is the natural guardian of the other Class-I legal heir, i.e., Respondent No. 2 herein, there is no impediment in granting the letters of administration of the entire estate (movable and immovable) of late Sh. Ruchin Khanduja.

13. In view of the above Letters of Administration qua immovable properties, i.e. (i) Flat No. 56, Pushpanjali Apartments, Plot No. 10, Sectors-4, Dwarka, New Delhi-110075 admeasuring 105.87 Sq. Yds. and (ii) Flat No. 305, Tower No. 28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida admeasuring 1779 Sq. Ft. of super area of the deceased late Sh. Ruchin Khanduja and in respect of the movable estate of late Shri Ruchin Khanduja, which includes the current account No.0023973236 are hereby granted in favour of the Petitioner.

14. Registry is directed to issue Letters of Administration as per valuation report as filed by the SDM concerned for the Dwarka Property and as per value recorded the allotment letter dated 02.02.2011 for the Noida Property, on paying requisite stamp duty etc. and also upon furnishing administration and surety bond by the Petitioner.

15. In view of the grant of Letter of Administration in favour of the Petitioner, Respondent No. 3, i.e., the developer (through its promoter or its



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RP) of Flat No.305, Tower No.28, Third Floor, 3C Lotus Boulevard, Sector 100, Noida is directed to record the devolution of interest of late Shri Ruchin Khanduja in favour of the Petitioner and Respondent No.2 herein jointly and record their names in its record.

16. With the aforesaid directions, the petition stands disposed of.

17. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 18, 2024

Mk/sk