



\$~29

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

+ TEST.CAS. 95/2022 & I.A. 10876/2023

RAJ KUMAR & ANR.

..... Petitioners

Through: Mr. Alok Kumar Jain, Mr. Anil
Kumar Jha, Advocates.

versus

STATE GOVT OF NCT DELHI & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

09.04.2024

1. The petitioners have filed this petition, under Section 276 of the Indian Succession Act, 1925, for grant of probate of a will dated 14.01.2016, stated to have been executed by their father – Late Shri Gopi Chand.
2. The will is a registered document. It is stated therein that the testator's family comprised of his wife – Smt. Nirmala Devi, two sons, being the petitioners herein, and two daughters – Smt. Kusum Lata and Smt. Suman Lata - who have been impleaded as respondents Nos.3 and 4 in the petition. Smt. Nirmala Devi was impleaded as respondent No.2 in the petition, but she passed away during the pendency of the probate petition, and has been deleted from the array of parties by order dated 27.02.2024.
3. Under the said will, the testator has bequeathed his immovable

TEST.CAS. 95/2022

Page 1 of 3



properties to the petitioners herein and has also named the beneficiaries as executors of the will.

4. The will is attested by two witnesses, namely Shri Ishant, s/o Shri Raj Kumar, r/o D-76, 2nd Floor, Gali No.10, Near Metro Station Saket, New Delhi, and Shri Suresh Mahto, s/o Shri Satya Narayan Mahto, r/o D-76, Ground Floor, Near BSF Camp, Saket, New Delhi. Alongwith the petition, the petitioners have placed on record an affidavit of one of the attesting witnesses, namely Shri Ishant, who is the grandson of the testator. He has stated that the testator signed the will in his presence and the presence of Shri Suresh Mahto, and that the attesting witnesses also attested the will in the presence of the testator then and there.

5. Notice was issued in the petition on 18.11.2022 and citations were also directed to be published in the Statesman – English Newspaper and Navbharat Times – Hindi Newspaper. Citations were duly published on 16.12.2022. This has been recorded in the order of the learned Joint Registrar dated 13.01.2023. Service upon respondents Nos.3 and 4 was noted in the orders of the learned Joint Registrar dated 31.05.2023 and 18.10.2023 respectively. No objections to the petition have been received either from respondents Nos.3 and 4 or pursuant to the citations.

6. Affidavits of evidence were filed by four witnesses, being the two attesting witnesses [Shri Ishant – PW-1 and Shri Suresh Mahto – PW-2], and the two petitioners [Shri Raj Kumar – PW-3 and Shri Rakesh Kumar Verma – PW-4]. The will has been exhibited by Shri Ishant as exhibit PW-1/1. He has identified his signature and the signature of Shri Suresh Mahto. It is stated that the will was signed by the testator in the presence of both the attesting witnesses, and by the attesting witnesses in the



presence of each other.

7. The evidence of Shri Suresh Mahto [PW-2] also corroborates the evidence of PW-1.

8. The petitioners [PW-3 and PW-4] have affirmed that they have testified that they have filed the present petition and have also relied upon the exhibited documents. PW-3 has exhibited two documents, being the death certificate of the testator [PW-3/1], and the death certificate of the mother of the petitioners, who died on 24.12.2022 [PW-3/2].

9. None of the witnesses were cross examined as the petition was uncontested.

10. In view of the above, I am of the view that the petitioners have proved the due and valid execution of the will of the testator dated 14.01.2016.

11. The petition is, therefore, allowed and the petitioners are granted probate of the will dated 14.01.2016 of Late Shri Gopi Chand [Exhibit PW-1/1].

PRATEEK JALAN, J

APRIL 9, 2024

SS/