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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ TEST.CAS. 29/2010
DEEPAK DUGGALPetitioner
Through: Mr. Sanjay Dua, Adv.

versus

STATE & ORSRespondents
Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
% **28.11.2024**

I.A. 46545/2024 (under Section 151 CPC by petitioner seeking exemption from furnishing administrative bond/surety bond)

1. The present application has been filed by the petitioner under Section 151 CPC seeking exemption from furnishing the administrative bond/surety bond as per judgment dated 28.06.2024.
2. The present petition was allowed and probate was granted to the petitioner in respect of the Will dated 07.12.1985 executed by the Late Sh.Panna Lal Duggal, the father of the petitioner. The petitioner was the named executor in the Will.
3. While granting probate this Court also directed the petitioner to furnish the administrative bond with one surety to the satisfaction of the worthy Registrar General of this Court and further subject to payment of requisite Court Fee.
4. The learned counsel for the petitioner/applicant submits that the Court



Fee to the tune of Rs.1,59,275/- has already been deposited. He submits that in so far as the furnishing of administrative bond, as well as, surety bond, is concerned, the plaintiff is not in a position to arrange for the same. He submits that the petitioner is a pensioner of 73 years of age.

5. He submits that the subject matter of the Will is only one immovable property which is in the possession of the petitioner where he is residing with his family. He further submits that the petition was initially contested by the petitioner's sisters i.e. respondent nos. 2 and 3 but at the stage of final arguments, none appeared for the said respondents.

6. He further submits that the statutory period for preferring an appeal against the judgment dated 28.06.2024 has also lapsed and till date no appeal has been preferred by either the respondent nos. 2 or 3.

7. To buttress his contention, the learned counsel has placed reliance on the decision of a Coordinate Bench of this Court in **Arvind Nanda vs. State**, CM(M) 265/2020, (date of decision 28.02.2020) wherein this Court, after referring to various earlier decisions of this Court, had observed 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 Id. Division Bench of this Court in Rajesh Kumar Sharma (supra), the imposition of a condition is not mandatory.”*

8. In view of the above legal position and regard being had to the fact that the petitioner is in the possession of the suit property where he is residing with his family and the respondent nos. 2 and 3 did not contest the petition at the final stages nor have they preferred any appeal against the judgment granting probate and further, no other claimant has come forward making claim for the property, I am satisfied that the present application deserves to be allowed. Ordered accordingly.

9. Consequently, the petitioner is exempted from furnishing the administrative bond, as well as, the surety bond as directed *vide* judgment dated 28.06.2024.

10. The application stands disposed of.

VIKAS MAHAJAN, J

NOVEMBER 28, 2024/dss