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

+ TEST.CAS. 77/2018

SHRI RAKESH KUMAR GHEI & ANR.Petitioners

Through: Mr.Anuj Kapoor, Ms.Kriti
Kapoor, Mr.M.K.Puri, Advs.

versus

STATE & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **02.04.2025**

I.A. 48930/2024

1. This application has been filed by the petitioners, praying for waiver of the condition of furnishing of the surety and administration bond as directed in the Judgment dated 30.08.2024 of this Court.
2. By way of the above judgment, the probate petition of the petitioners/applicants was allowed by this Court and the Letter of Administration in respect of Will dated 30.03.1994 was granted to the petitioner, subject to furnishing a surety and administration bond.
3. It is pleaded that the petitioners are senior citizens, having citizenship of the United States of America, and have been staying there since 2006. As they have been staying away from India for the last 18 years, they are not in touch with their old friends and neighbours, because of which they have not been able to obtain surety of the amount required in terms of the above Judgment.
4. This Court, *vide* its Judgment dated 30.08.2024, had dismissed



the objections filed by the respondent nos.2 to 5, and had granted Letters of Administration in respect of Will dated 30.03.1994 of late Shri Vas Dev Ghei to the petitioners, on paying the requisite Court Fee/Stamp Duty and furnishing the requisite administrative bond and surety.

5. Notice of this application was issued to the respondents, *vide* Order dated 24.01.2025.

6. In the Order dated 07.03.2025, it was recorded that in spite of service of notice on the respondent nos.2 to 5, none is appearing for them.

7. Today again, there is no appearance on behalf of the respondent nos.2 to 5. They are, therefore, proceeded *ex-parte*.

8. In terms of the Will dated 30.03.1994, late Shri Vas Dev Ghei has bequeathed his property bearing no. A-20, Preet Vihar, Delhi-110092 in favour of the petitioners.

9. The learned counsel for the petitioners submits that no appeal has been filed challenging the Judgment dated 30.08.2024 of this Court; the period of limitation has also long expired.

10. In ***Sanjay Suri v. State & Ors.***, 2003 SCC OnLine Del 966, this Court has held that, keeping in view the object and purpose sought to be achieved by Section 291 of the Indian Succession Act, 1925, the said provision is not intended to cover within its ambit the case of a sole beneficiary and legal heir being required to furnish administration/surety bond. This Court held as under:

“28. Considering the nature of the Testamentary and Intestate succession, the object and purpose sought to be achieved by



Section 291 and thus applying the aforesaid principles of interpretation of statutes, it would be seen that Section 291 of the Act is not intended to cover within its ambit the cases of a sole beneficiary and legal heir under a Will being required to furnish administration/surety bond. One cannot administer the estate or his own estate against himself, for which he be required to give an indemnity or administration bond. Besides, none of the purposes and objectives of Section 291 of the Act are covered or fulfilled by the execution of an administration/surety bond by the sole inheritor or beneficiary under the Will duly proved. Such an exercise would be an exercise in futility. In the instant case if the petitioner's grand son was to mismanage or maladminister, he would be, doing so only against his own and personal interests. A right that clearly vests in him by virtue of the bequest. Hence insistence of furnishing the administration bond in the present case would not only be meaningless and without any purpose, but inconsistent with succession. Section 291 in the light of the foregoing principles of interpretation, as noticed, has to be interpreted so as not being applicable to a case of a sole beneficiary and legal heir, under a duly proved Will insofar as requirement of furnishing an administration bond is concerned”

11. In light of the foregoing discussion, the petitioners/applicants, being the sole beneficiaries under the Will dated 30.03.1994 of late Shri Vas Dev Ghei, are exempted from furnishing the Administration and surety bond.

12. The application is disposed of in the above terms.

NAVIN CHAWLA, J

APRIL 2, 2025/sg/VS