

CR-7717-2025 (O&M)
Date of Decision : 04-12-2025

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sudhanshu Makkar, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (Oral)

1. Present Revision Petition has been filed under Article 227 of the Constitution of India, impugning the order dated 07.05.2024 (Annexure P-6), whereby miscellaneous application dated 25.08.2023 (Annexure P-2) filed by the respondent No.2 to implead as party respondent under Order 1 Rule 10 CPC and another miscellaneous application dated 10.04.2024 (Annexure P-3) filed by respondent No.3, for setting aside *ex parte* order dated 31.05.2022 and impleaded herself as party respondent under Order 1 Rule 10 CPC, passed by the Additional District Judge, Bhiwani.

2. Learned counsel for the petitioner contends that in view of the provisions of Section 276 of the Indian Succession Act, 1925, the procedure to obtain Probate of Will has been provided. Section 227 of the Act declares the effect of the probate i.e. the Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate act

of the executor as such, reliance has been placed upon the judgment of the Hon'ble Apex Court in ***Chiranjilal Shrilal Goenka (deceased) through LRs. Vs. Jasjit Singh, decided on 18.03.1993***, wherein it is contended that the court of probate is only concerned with the question as to whether the document put forward as the last will and testament of a deceased person was duly executed and attested in accordance with law and whether at the time of such execution the testator had sound disposing mind.

3. It is further contended that the question whether a particular bequest is good or bad is not within the purview of the Probate Court.

4. Keeping in view the aforesaid decision, it is contended that the trial Court should not have entertained the claim of the respondents by impleading them as a party to the proceedings since they are raising the claim of succession of the property regarding which the probate of the testament has been sought by the petitioner, for which, they have separate remedy to avail.

5. I have considered the aforesaid submissions and perused the paper-book.

6. Petition (Annexure P-1) filed by the petitioner indicates that General Public was impleaded as the respondent while filing the petition under Section 276 of the Indian Succession Act, 1925 seeking grant of letter of Probate on the basis of Will executed by Smt. Vandana Khemka on 31.07.2021. Since, the General Public was a party as such, any one from the General Public could have raised objections. In such circumstances, the impugned order passed by the trial Court impleading the respondents as one of the party by invoking Order 1 Rule 10 of CPC, is not contrary to law.

7. At this stage, no such order has been passed by the trial Court contrary to the scope of Section 276 of the Indian Succession Act, 1925 as such, the present petition has no merits and the same is disposed of accordingly.

8. Liberty is granted to the petitioner to avail alternative remedy available to him at an appropriate time.

9. Disposed of with the liberty aforesaid.

10. Pending miscellaneous applications, if any, shall stand disposed of.

04-12-2025
Sapna Goyal

(HARPREET KAUR JEEWAN)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO