



2025:DHC:1993



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **TEST.CAS. 11/2024 and I.A. 48476/2024, I.A. 1302/2025**Date of Decision: **19.03.2025****IN THE MATTER OF:**

RAJ MOHINI JUNEJA

.....Petitioner

Through: Mr. Ashim Vaccher, Sr. Adv with
Ms. Saiba Meher Rajpal, Adv along
with petitioner in person.

versus

STATE AND ORS.

.....Respondents

Through: Mr. Anmol Adhrit, Adv for R-2.
Mr. Narendra Kalra, Adv for R-3.
Mr. Puneet Srivastava, Adv for R-4
along with R-4.
Mr. Ashish Sinha and Ms. Ishita
Sinha, Advs for R-5.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

The instant petition under Section 276 of the Indian Succession Act, 1956 has been filed by petitioner, i.e, Ms. Raj Mohini Juneja, who is the wife of Late Sh. Kesho Nath Juneja (*hereinafter referred to as 'testator'*), for Letters of Administration (LoA) of the will and testament dated 06.08.2015 (*hereinafter referred to as 'The Will'*).

2. The facts of the case would indicate that the testator, son of Late Sh.

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Gurditta Ram Juneja, was the husband of the petitioner and father of the respondent nos. 2 to 5. Furthermore, it is manifest in the petition that the testator was the absolute owner and resident of House No. E-130B, Ashok Vihar, Phase-I, Delhi-110052 (hereinafter *referred to as 'subject property'*). According to the petition, the testator left for the heavenly abode on 29.11.2019, and during his lifetime, he executed the Will, wherein, he has bequeathed the subject property to the petitioner.

3. It is seen that respondent nos. 3 and 5 are supporting the case of the petitioner, i.e. their mother. It is, thus, seen that the instant petition is only contested by respondent nos. 2 and 4, who are represented by Mr. Anmol Adhrit, learned counsel, and Mr. Puneet Srivastava, learned counsel, respectively.

4. On the anvil of the aforesaid facts, Mr. Ashim Vaccher, learned senior counsel for the petitioner submits that on the basis of an unequivocal bequest in the Will, a LoA can be granted in favour of the petitioner to administer the properties of the testator, as per his last testament.

5. The aforesaid prayer is fervently opposed by the learned counsel who appear for contesting respondents.

6. Mr. Adhrit and Mr. Srivastava, jointly contend that in the instant case, the Will is contingent on the death of the petitioner and is a conditional instrument. According to them, it is only during the lifetime of the petitioner that she is entitled to the enjoyment of the absolute right over the subject property. However, learned counsel contend that as per the Will, on the petitioner's demise the property will have to be divided between the daughters, who are respondents herein. They, therefore, contend that if the LoA is granted and the subject property is disposed of during the lifetime of



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the petitioner, the substantial rights of the daughters would be adversely affected.

7. I have considered the submissions made by the learned counsel appearing for the parties and have perused the record.

8. This Court in the case of ***Sh. Raj Rani Bhasin vs. State***¹, has held that the person to whom LoA is granted does not thereby, become entitled to the property or estate of the deceased/testator and the estate still succeeds according to the law of succession applicable to the deceased/testator. The primary objective of a LoA, issued by the Court, is to authorize the appointed administrator to gather and consolidate the assets of the deceased or testator. It also allows the administrator to interact with relevant authorities where such assets are held or recorded, enabling the realization of those assets and facilitating their transfer to the rightful successors in accordance with the applicable laws of succession. It was further held that the administrator is required to, from time-to-time, to file accounts in the Court with respect to the administration of the estate and/ or as to how the estate has been settled/ transferred to the successors in accordance with the law of succession applicable to the deceased and upon the administrator defaulting in the same, the Court retains the power to revoke the grant. For the sake of clarity, Paragraph no.9 of the aforesaid decision reads as under:

“9. The person to whom letters of administration are granted does not thereby become entitled to the property or estate of the deceased. The estate still succeeds according to the law of succession application to the deceased. The purpose of Letters of Administration is merely to enable the administrator so appointed by the Court to collect/ assimilate the properties of the deceased, and/ or to deal with the various authorities with whom the properties of the deceased may be vested or recorded and to realize the same and / or to have the same transferred in the names of

¹ 158(200) DLT 713



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the successors in accordance with law of succession applicable to the deceased. The administrator is required to, from time-to-time, file accounts in the Court with respect to the administration of the estate and/ or as to how the estate has been settled/ transferred to the successors in accordance with law of succession application to the deceased and upon the administrator defaulting in the same, the Court retains the power to revoke the grant”

9. More importantly, this Court in ***Puneet Kumar Anand v. Pishori Lal (Deceased) Thr Lrs***², in a similar factual matrix, has held that a conditional bequest made by the testator to his/her spouse to enjoy the property in the lifetime of the spouse, with a further condition that upon the death of such beneficiary/spouse, the subject properties shall dwell upon their children, constitutes a valid bequest in the eyes of law. The relevant extract of the decision reads as under:-

“...However, upon a perusal of the same, it is seen that, the Court, after considering the principles laid down in Radha Sundar Dutta v. Mohd. Jahadur¹⁴ and Rameshwar Bakhsh Singh v. Balraj Kuar¹⁵, formulated the legal principle that when a testator grants a restricted or limited interest in the property, they retain the authority to make a subsequent bequest of the same property, effective upon the death of the initial beneficiary, within the same will...”

10. The Will in question is extracted hereinunder:

“WILL

This is the last Will and Testament of me Kesho Nath Juneja Son of Late Shri Gurditta Ram Juneja, resident of E-130B, Ashok Vihar, Phase-I, Delhi-110052. I executed one Will earlier which was registered with the Sub-Registrar on 16.10.2007 and in supersession of that Will I execute this present Will as my last and final Will and revoke the said earlier Will and by this Will I declare that this Will is my last and final Will.

I am the absolute and exclusive owner of House No. E-130B, Ashok Vihar, Phase-I, Delhi-110052 and this is my self acquired property and I am in physical possession of the same.

² 2024:DHC:10057



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That by this Will I hereby state and declare that so long as I am alive, I will remain the exclusive and absolute owner of H. No. E-130B, Ashok Vihar, Phase-I, Delhi-110052 and I may deal with and dispose of the same in whatever manner I may choose.

I hereby bequeath the said property i.e. H. No. E-130B, Ashok Vihar, Phase-I, Delhi-110052 to my wife Mrs. Raj Mohini Juneja to the exclusion of all others and my wife will alone become the absolute owner of the said house after my death and none else will have got any concern with the same. I further bequeath that all my movable property. Bank and Post Office Accounts will also go to my wife Mrs. Raj Mohini Juneja after my death to the exclusion of all others.

That I have four daughters. My first daughter is Sangeeta Chopra wife of Shri Vijay Chopra, 2nd daughter is Sudha Kalra wife of Shri Sudhir Kalra, 3rd daughter is Shikha Grover wife of Shri Sanjeev Grover and fourth daughter is Jaya Sethi wife of Shri Ravi Sethi.

That I by this will further bequeath that after the death of both myself and my wife Mrs. Raj Mohini Juneja, this property bearing H, No. E- 130B, Ashok Vihar, Phase-I. Delhi-110052 shall go to my four daughters namely, Sangeeta Chopra wife of Shri Vijay Chopra, Sudha Kalra wife of Shri Sudhir Kalra, Shikha Grover wife of Shri Sanjeev Grover and Jaya Sethi wife of Shri Ravi Sethi in equal share having 1/4th each.

I am making this my last Will of my own accord and free will being in full senses and without any coercion or influence whatsoever from any person.

IN WITNESS WHERE OF, I Kesho Nath Juneja do hereby set my hands and put my signatures on my this last Will at Delhi on this the 6th day of July, 2015 in the presence of the witnesses.

SD...
(KESHONATH JUNEJA)
EXECUTANT

Signed by the above mentioned Kesho Nath Juneja in our presence at the same time and in the presence of each other and at his instance each of us have in the presence of the testator and in the presence of each other signed hereunder as attesting witnesses after the contents of the Will have been read over and admitted by the testator Shri Kesho Nath Juneja to be true and correct.

1. Witness: -sd-

Harish Juneja S/o Sh. Hari Krishan Juneja
MPP77B PITAMPURA NEW DELHI
PanNo ADPJ13426

2. Witnwss : -sd-

Renu Juneja W/o Harish Juneja And C/o Jagdish Chandar
Election Id No. ZFKO185603
NPP-77/B, PITAMPURA, NEWDELHI"

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11. The Will states that the subject property is a self-acquired property of which the testator was in possession at the time of execution of the Will. It further states that during the lifetime of the testator, he continued to be the exclusive and absolute owner of the said property, however, he bequeathed the same to his wife i.e, Mrs. Raj Mohini Juneja, the petitioner herein, to the exclusion of all other and conferring his wife alone the absolute ownership and rights on his demise.

12. Besides the aforementioned, in the subsequent paragraph of the Will, it is stated that the deceased has four daughters and as per the Will, after the demise of the testator and the petitioner, the property shall go to the four daughters, respondents herein, with equal share having 1/4th each.

13. It is, thus, unequivocal that so long as the petitioner is alive, she is entitled to enjoy the right of administration. Accordingly, the Court finds that in view of the unambiguous admission of the respondent in their written statement to the effect of execution of the Will, the petition must succeed.

14. In view of the aforesaid, the Court directs that the Letter of Administration be issued in favour of the petitioner by the concerned Registrar subject to furnishing the bond as well as the payment of the applicable Court fee.

15. Ordered accordingly.

16. The instant petition stands disposed of along with other pending applications.

PURUSHAINdra KUMAR KAURAV, J

MARCH 19, 2025/aks/mjo

Click here to check corrigendum, if any

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