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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 10th March 2025

+ TEST.CAS. 11/2023

ASHISH SHARMA & ANR.

.....Petitioner

Through: Mr. Rajat Bhalla, Advocate with
petitioner No.1.

versus

STATE OF NCT OF DELHI THROUGH ITS ADMINISTRATION
& ANR.

....Respondent

Through:

CORAM:

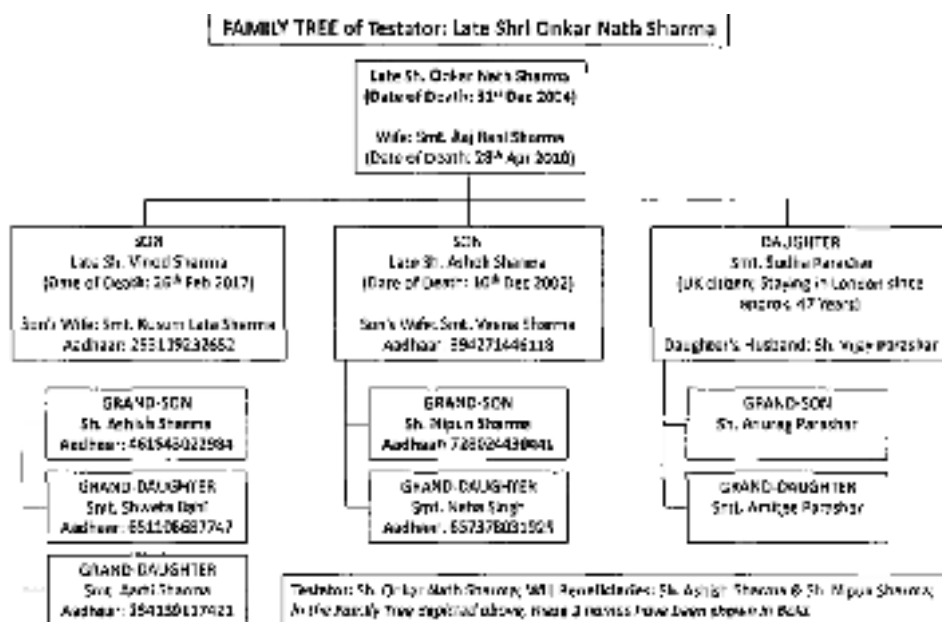
HON'BLE MR. JUSTICE ANISH DAYAL

ANISH DAYAL, J. (Oral)

1. The present petition has been filed under Section 228 of the Indian Succession Act, 1925 (**'the Act'**), seeking grant of letter of administration of the registered Will dated 13th April 2000, executed by petitioner's late grandfather i.e. *Late Shri Onkar Nath Sharma* (**'Testator/Deceased'**).
2. The Will was registered before the Sub-Registrar (North-west), Delhi, under Registration No. 1653 in Book No. 3, Volume No. 2043, Page Nos. 23-24 on 16th January 2003. The Will was executed in the presence of four attesting witnesses i.e. *late Shri K. L. Kishwar, late Shri R. A. Grover, Sh. Indraj Singh Bhama, and Mr. Sanjay Bansal.*
3. The testator passed away on 31st December 2004. A copy of the death certificate of the testator issued by the competent authority has been placed on record as **Exhibit PW-1/D.**



4. Testator was survived by his wife, *late Smt. Raj Rani Sharma*, who passed away on 28th April 2010 (original death certificate is exhibited as **Exhibit PW1/E**), his sons, *Late Sh. Vinod Sharma* (since deceased on 26th February 2017; original death certificate is exhibited as **PW1/G**) and *late Sh. Ashok Sharma* (since deceased on 10th December 2002; original death certificate is exhibited as **Exhibit PW1/F**), and his daughter, *Smt. Sudha Parashar*, who is respondent no. 2 in the present Petition. The family tree of the testator is extracted as under:



5. The Testator's last place of residence was *House No. 33, Road No. 62, Punjabi Bagh, New Delhi-110026* ('the said property'). The testator acquired the said property through a sale deed dated 6th December, 1961, which was duly registered on 27th December 1961.

6. As per the Will dated 13th April 2000, the testator has bequeathed the said property to his grandsons, *Mr. Ashish Sharma*, and *Mr. Nipun Sharma*, who are petitioners in the present case.



7. Petitioner no. 1 as **PW1** has filed his evidence by way of affidavit of evidence **Ex.PW1/1** which bears his signatures at **point A and B**, and has placed the following documents on record:

i. A certified copy of the registered Will dated 13th April 2000 as **Exhibit PW-1/A**.

ii. A certified copy of the Testator's death certificate as **Exhibit PW-1/D**.

8. List of assets has been filed as **Schedule A** to the petition and list of surviving Class-1 legal heirs of *Late Shri Onkar Nath Sharma* are contained in **Schedule B**.

9. In compliance with the directions of this Hon'ble Court, citations were published in two newspapers i.e., '*The Statesman*' (English edition) and '*The Navbharat Times*' (Hindi edition), as per this Court's order dated 21st February 2023. Compliance of the same has been placed on record.

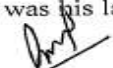
10. Two of the attesting witnesses, *Sh. Indraj Singh Bhamra* and *Mr. Sanjay Bansal*, have filed an affidavit of evidence **Ex.PW2/1** and **Ex.PW3/1** respectively, confirming that the Testator signed the Will in their presence, and that both witnesses were present along with the Testator at the time of execution.

11. The evidence of **PW-2** and **PW-3** are produced as below:



I, Sanjay Bansal s/o Shri. K.C Bansal aged about 51 years r/o U-170, upper ground floor, Uttari Pitampura, Delhi-110040 do hereby solemnly declare and state as under:

1. I state that I am the witness to the Will dated April 13th 2000 which was duly registered on January 16th 2003 of Shri. Onkar Nath Sharma. The original Will dated April 13th 2000 is already exhibited as Exhibit PW 1/A.
2. I state that I knew Shri. Onkar Nath Sharma s/o Late Shri. Jagan Nath Shastri r/o House No. 33, Road No. 62, Punjabi Bagh, New Delhi who died on 31.12.2004 and his family members and as such am thoroughly conversant with the facts and circumstances of the present petition which I have also verified.
3. I state that though the aforementioned Will was already signed by late Shri. Onkar Nath Sharma, however, the same was once again signed by him in the presence of the deponent and the other witness namely Shri. Indraj Singh Bhama where he put his signatures at **Points A-1, A-2 & A-3** and put his thumb impressions at **Points A-4 & A-5** on the Will dated 13.4.2000 in my presence and in the presence of the other witness namely Shri. Indraj Singh Bhama. I have put my signatures as a witness at **Point C-1** and put my thumb impression at **Point C-2**.
4. That that at the time of execution of the aforementioned Will, Shri. Onkar Nath Sharma was having full knowledge and understanding the contents of the aforementioned Will who read and understood the contents thereof and admitted before me the correctness of the contents of the aforesaid Will which was his last Will and testament.


DEPONENT

VERIFICATION

Verified at New Delhi on this the 31 day of MAY, 2024 that the contents of my above affidavit are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed therein.


DEPONENT



**EVIDENCE BY WAY OF AFFIDAVIT OF MR.
INDRAJ SINGH BHAMA AGED ABOUT 87 YEARS
S/O LATE SHRI. HARCHAND RAI R/O A-1/244,
PASCHIM VIHAR, DELHI-110063.**

I, Mr. Indraj Singh Bhama s/o Late Shri. Harchand Rai aged about 87 years r/o A-1/244, Paschim Vihar, Delhi-110063 do hereby solemnly declare and state as under:

1. I state that I am the witness to the Will dated April 13th 2000 which was duly registered on January 16th 2003 of Shri. Onkar Nath Sharma. The original Will dated April 13th 2000 is already exhibited as **Exhibit PW 1/A**.
2. I state that I knew Shri. Onkar Nath Sharma s/o Late Shri. Jagan Nath Shastri r/o House No. 33, Road No. 62, Punjabi Bagh, New Delhi who died on 31.12.2004 and his family members and as such am thoroughly conversant with the facts and circumstances of the present petition which I have also verified.
3. I state that though the aforementioned Will was already signed by late Shri. Onkar Nath Sharma, however, the

same was once again signed by him in the presence of the deponent and the other witness namely Shri. Sanjay Bansal where he put his signatures at **Points A-1, A-2 & A-3** and put his thumb impressions at **Points A-4 & A-5** on the Will dated 13.4.2000 in my presence and in the presence of Shri. Sanjay Bansal. I have put my signatures as a witness at **Point B-1** and put my thumb impression at **Point B-2**.

/ Executant
presence.

4. That that at the time of execution of the aforementioned will, Shri. Onkar Nath Sharma was having full knowledge and understanding the contents of the aforementioned Will who read and understood the contents thereof and admitted before me the correctness of the contents of the aforesaid Will which was his last Will and testament.

Indraj Singh Bhama

DEPONENT

VERIFICATION

Verified at New Delhi on this the 31 day of MAY 2024 that the contents of my above affidavit are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed therein.

Indraj Singh

DEPONENT



12. Notice of the petition was issued to the respondents *vide* order dated 21st February 2023, and respondent no.1, *Sub-Divisional Magistrate*, was directed to file a valuation report assessing the estate of the testator. The concerned authority has filed the valuation report assessing the estate's value at Rs. 4,01,92,128/- (*Four crore one lakh ninety-two thousand one hundred twenty-eight only*).

13. Notice was issued to respondents on 21.02.2023. Petitioner filed an Affidavit of Service *qua* service of respondent no.2, and the same was noted in order dated 25.08.2023. The right of respondent no.2 to file reply/objections was closed by order dated 11th October 2023, by this Court.

14. Accordingly, considering that no objection has been raised by any other legal heirs regarding the grant of letter of administration and all relevant evidence has been placed on record, the Court is satisfied that the Will is authentic and duly executed in accordance with the law, and that is no legal impediment to granting letter of administration.

15. Accordingly, the present petition is allowed. Subject to the Petitioners filing the requisite court fees, letter of administration shall be granted in favour of the petitioners to enable them to administer the registered Will dated 13th April 2000, along with a copy of the Will annexed.

16. Petitioners are exempted from furnishing any administration or surety bond, considering there is no contest from other legal heirs to grant of letter of administration in favour of petitioners. In this regard, a decision in *Maninder Singh v State & Anr.* 2015 SCC OnLine Del 9265 is apposite, the relevant paragraph of which, is extracted as under:

“8...There are a stream of cases, where having regard to the fact that the petitioners in



testamentary cases where probate/letters of administration were sought in respect of the estate of the deceased, had been exempted from furnishing Surety Bond/Administration Bond on the ground that the will was in favour of the natural heirs and there was no contest to the request for grant of letters of administration/Probate. It was observed that where the petitioners/applicants were natural heirs/sole beneficiary of the deceased, any order directing the said petitioner(s) to stand as an administrator/surety of the estate of the deceased would amount to their/his standing surety for themselves/himself.”

17. Petition is accordingly disposed of. Pending applications (if any) are also rendered infructuous.

18. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MARCH 10, 2025/RK/bp