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

+ **LPA 242/2023 & CM APPL. 17490/2023 (Stay)**

BALDEV RAJ AHUJA

.....Appellant

Through: Mr. Ajit Nair, Mr. Satvik
Tripathi & Ms. Jyoti Singh
Advocates.

versus

STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. S.K. Sharma, Mr. Rahul
Sharma, Mr. Yogender Kumar,
Mr. Tejas Singh, Mr. Saurabh
Dagar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

01.09.2025

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1. In the present Letters Patent Appeal, the Appellants challenge the correctness of the concurrent findings of fact rendered by the learned ADJ-02 (West), Tis Hazari Courts, Delhi, in Probate Case No. 133/10/6 (New P.C. No. 16002/2016), which have been upheld by the learned Single Judge.

2. The dispute pertains to the correctness of the registered Will dated 31.12.1990, executed by Ms. Talian Bai, widow of Late Mr. Ram Chand, who was survived by two daughters. The registered Will has been executed in favor of Ms. Wanti Bai, the daughter of Ms. Talian Bai. The execution of the Will has been duly established through the examination of Mr. Ramesh Vashisht, Advocate, who was



an attesting witness of the registered Will. His deposition was found sufficient to establish the due execution of the same in accordance with Section 68 of the Indian Evidence Act, 1872 (corresponding to Section 67 of the Bharatiya Sakshya Adhiniyam, 2023). Learned ADJ, therefore, held that Ms. Wanti Bai is entitled to probate of the registered Will dated 31.12.1990, executed by her mother, which in Appeal has been affirmed by the learned Single Judge.

3. Learned counsel for the Appellant has made the following two submissions:

- i. The propounder failed to prove that the Testator was of sound disposing mind at the time of execution of the Will; and
- ii. The attesting witness did not verify the documents to prove identification of the lady who executed the testament.

4. This Court has carefully considered the depositions of the propounder and of the attesting witness, Mr. Ramesh Vashisht, Advocate. Learned counsel for the Appellant gave no suggestion to the witnesses that the Testator was not of the sound mind. While appearing in evidence, the Appellant did not state that the Testator was of unsound mind. The Testator survived for a period of 14 years following the execution of the Will. There is no evidence to establish that the Testator was not of sound mind.

5. With regard to the second submission, it is noteworthy that a photograph of the Testator has been affixed to the Will. The Testator's thumb impression has been placed in such a manner that half of it appears on the photograph, and the remaining half is on the Will itself. It is not the Appellant's case that the photograph is not of the Testator. Mr. Rao Ram, the brother of Ms. Talian Bai's husband, served as the second attesting witness, and unfortunately passed away



prior to the commencement of the proceedings. He was, however, in a position to identify the Testator. As per Section 63 of the Indian Succession Act, 1925, the attesting witness is required to attest the Will by affirming that the Testator signed or affixed his thumb impression in their presence, or that the Testator acknowledged to them the execution of the Will by signing or affixing his thumb impression.

6. Learned counsel for the Appellant submits that Section 34 of the Indian Registration Act, 1908 mandates that the Registering Officer must satisfy himself regarding the identity of the person appearing before him. The propounder examined the official from the office of the Registrar. The Appellant, however, did not offer any suggestions or cross-examine the witnesses on this particular aspect of the matter.

7. Keeping in view the aforesaid, no ground is made out to interfere with the impugned judgment. Accordingly, the present Appeal along with pending application(s), if any, stands dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 01, 2025/rk/ds/rn