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

Date of decision: 21st March, 2025

+ TEST.CAS. 45/2023

SUNIL KUMAR

.....Petitioner

Through: Mr. Ajay Garg, Mr. Uday Garg,
Advocates.

versus

THE STATE

.....Respondent

Through: Ms. Tripti Gola, Advocate for R-2 &
3.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present petition under Section 278 read with Section 232(a) of the Indian Succession Act, 1925 has been filed seeking limited grant of Letters of Administration ('LoA') qua a single immovable asset of the late Smt. Shakuntala Mathur ['testatrix/deceased'].
2. The details of the immovable asset are i.e., the property bearing Plot No. U-23B, admeasuring 458.33 sq. yards, situated in Killa No. 11/19 Min. situated in the Revenue Estate of Village Pawala Khasru Pur, Teh and District Gurgaon (Haryana) ['subject property'].
3. It is stated that testatrix was an ordinary and permanent resident of



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Delhi; and she died on 09.05.2001 at her residence i.e., 12-B, JD Block, Pitampura, Delhi.

4. It is stated that the testatrix had signed and executed the Will dated 01.05.2001 in the presence of two attesting witnesses i.e., Sh. Dharendra Negi and Sh. Sudarshan Nautiyan. It is stated that the Petitioner is the sole beneficiary-legatee in the said Will

5. It is stated that the Petitioner is the son of late Sh. Vishwanath Sahai Mathur, who in-turn was the real brother of late Sh. Kailash Sahai Mathur [testatrix's husband]. It is stated that thus the Petitioner is the nephew of late Sh. Kailash Sahai Mathur.

6. It is stated that the testatrix died issueless and pre-deceased her husband Sh. Kailash Sahai Mathur. It is stated that Sh. Kailash Sahai Mathur died on 15.09.2008. It is stated that the testatrix had no other natural legal heirs.

7. It is stated that the testatrix was the absolute owner of the 50% undivided share of the subject property; however, the said property could not be administered without the Petitioner being declared as the legatee/beneficiary of the Will dated 01.05.2001. Thus, the Petitioner was constrained to file the present petition.

Submissions of the Counsel for the Petitioner

8. Mr. Garg, learned counsel for the Petitioner submits that the present matter is uncontested. He states that the evidence of the Petitioner i.e., PW1 and attesting witness of the Will dated 01.05.2001, Mr. Dharendra Negi i.e., PW2 has been recorded. He states that the affidavits recording no objection filed by Petitioner's sisters i.e., Respondent Nos. 2 and 3 are also on record. He states that in view of the said facts and circumstances, this Court may



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grant the Letters of Administration in favour of the Petitioner.

Findings and Analysis

9. This Court has perused the record and heard the learned counsel for the Petitioner.

10. The present petition was received by this Court in pursuance of the Order dated 22.03.2023 passed by co-ordinate Bench of this Court in TR.P.(C) No. 47/2023 titled **Sunil Kumar v. State**. Initially, the Petitioner had filed this petition bearing PC No. 30/2022 before the District Court at Rohini. During the pendency of the petition before the District Court, citation to general public was published in the newspaper, namely, 'Veer Arjun' on 07.05.2022 but no objections from any member of the general public were received. This fact has been recorded by the predecessor Bench in the order dated 05.09.2023.

11. In the Will dated 01.05.2001, the testatrix has bequeathed her estate [both movable and immovable assets] in favour of the Petitioner. It is stated in the said Will that the Petitioner is the nephew of the testatrix.

12. During the pendency of this matter, the Petitioner filed an affidavit dated 18.12.2024 stating that besides the Petitioner herein, his 2 sisters [Dr. Sunita Mathur and Mrs. Ameeta Mathur] also fall in category IV in Class II of Schedule to Section 8 of the Hindu Succession Act, 1956 ('Act of 1956'). It is stated that to the Petitioner's knowledge, these are the only three (3) natural legal heirs of the testatrix and her deceased husband, late Shri Kailash Sahai Mathur.

13. It was stated therein that since both the sisters of the Petitioner have no objection to grant of Letters of Administration in favour of the Petitioner in terms of the Will dated 01.05.2001, they were not included in the array of



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parties. However, during the hearing on 19.12.2024, the Petitioner made an oral request to implead them as Respondent Nos. 2 and 3 in the present proceedings.

14. Accordingly, Dr. Sunita Mathur and Mrs. Ameeta Mathur, who are sisters of the Petitioner were impleaded as Respondent Nos. 2 and 3 respectively, in the present proceedings vide Order dated 19.12.2024 and were directed to file their replies.

15. Respondent Nos. 2 and 3 have filed their respective affidavits conveying their no objection for the grant of Letters of Administration in respect of estate/immovable assets of the deceased/testatrix in favour of the Petitioner in terms of the Will dated 01.05.2001. The said Respondents are represented through their independent counsel.

16. The valuation report dated 17.05.2024 has been filed by the concerned SDM, Gurugram, Haryana in terms of which the value of the subject property has been assessed at Rs. 1,35,00,000/-.

17. The examination-in-chief of the Petitioner i.e., PW-1 was conducted and his statement was recorded on 10.10.2023. He proved and exhibited the documents he has relied upon. He proved the Will dated 01.05.2001 executed by the testatrix and the said document was exhibited as EX. PW-1/3. He proved the death certificate of the testatrix [exhibited as EX. PW-1/2] and the death certificate of the testatrix's husband i.e., late Sh. Kailash Sahia Mathur [exhibited as EX. PW-1/5].

18. The examination-in-chief of the attesting witness of the Will dated 01.05.2001, Sh. Dharendra Negi and his statement was recorded on 29.11.2023. He stated that the Will dated 01.05.2001, exhibited as EX. PW-1/3, was executed and signed by the testatrix in his presence. He further



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identified the signatures of the testatrix on the said Will at point 'A' and his own signature on the said Will at point 'B'. He further identified the signature of the second attesting witness Mr. Sudarshan Nautiyal on the said Will at point 'C'.

19. From the above, it is established that late Smt. Shakuntala Mathur had executed her last and final Will on 01.05.2001, which was duly attested by two (2) attesting witnesses namely i.e., Sh. Dharendra Negi and Sh. Sudarshan Nautiyan. It is also the pleaded case of the Petitioner that at the time of the execution of the said Will, the testatrix was of sound health and disposing mind. The said Will has not been opposed by any of the legal heirs or any other member of the public.

20. In the facts of the case in terms of Section 15(1)(a) of the Act of 1956, the estate of late Smt. Shakuntala Mathur upon her demise on 09.05.2001, would have ordinarily devolved upon her husband, Shri Kailash Sahai Mathur by intestate succession, since he was alive. However, the Petitioner has contended that the testatrix has executed subject Will dated 01.05.2001.

21. In the facts of this case, since Shri Kailash Sahai Mathur died a widower and issueless on 15.09.2008, as per the Petitioner, Shri Kailash Mathur's natural legal heirs as per Section 8 of the Act of 1956 read with category IV in Class II of the Schedule to Section 8 of the Act of 1956 are the Petitioner and his sisters i.e., Respondent Nos. 2 and 3 herein.

22. In these facts available on record, it is apparent that Petitioner and his sisters i.e., Respondent Nos. 2 and 3 are the only natural legal heirs who can have a claim to the estate of the testatrix. Since Respondent Nos. 2 and 3 have already given their no objection, this is an appropriate case for exempting the Petitioner from furnishing the Administration and Security



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bond, as he is also otherwise the natural legal heir of the testatrix. [Re. **Maninder Singh v. State and Another¹**]

23. Accordingly, Letters of Administration are granted in favour of the Petitioner in respect of Will dated 01.05.2001 for the limited purpose of 50% undivided share of late Smt. Shakuntala Mathur in the property bearing Plot No. U-23B, admeasuring 458.33 sq. yards, situated in Killa No. 11/19 Min. situated in the Revenue Estate of Village Pawala Khasru Pur, Teh and District Gurgaon (Haryana). A limited grant has been issued as prayed for by the Petitioner. A photocopy of the sale deed dated 02.08.1996 pertaining to the subject property has been placed on record.

24. The Registry is directed to issue Letters of Administration in respect of Will dated 01.05.2001, as per the valuation report filed by the SDM concerned for the aforesaid property, subject to Petitioner paying requisite court fees/stamp duty.

25. It is clarified that this Court has not examined or adjudicated or expressed any opinion with respect to the title of the testatrix qua the subject property.

26. The petition is accordingly disposed of along with the pending application, if any.

MANMEET PRITAM SINGH ARORA, J
MARCH 21, 2025/mt/MG

[Click here to check corrigendum, if any](#)

¹ 2015 SCC OnLine Del 9265 [Para 8, 9, 10 and 11]