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

Date of Decision: 18th February 2025

+ **TEST.CAS. 96/2022 I.A. 25248/2023**

RAHOUL CHOWDRY

.....Petitioner

Through: Mr. Riju Raj Singh Jamwal & Mr.
Manoj, Advocates.

versus

STATE & ORS.

.....Respondents

Through: Ms. Santoshi Yadav, Advocate for R-
2 & 3.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ANISH DAYAL, J. (Oral)

1. This petition has been filed under Section 276/278 of the Indian Succession Act 1925 seeking probate of registered Will dated 7th August 2013 executed by petitioner's late father i.e. *Major General Premangsu Chowdry ('Deceased/Testator')*.

2. The said Will was registered before Sub Registrar-V New Delhi under Registration no. 844 in Book no. 3 Volume no. 2025 Page no. 83 to 84 on 8th August 2013. The said Will was executed in the presence of two witnesses i.e. Mr. Bhim Kumar and Mr. Bijoy Kumar.

3. The testator passed away on 22nd March 2022 in Australia and his



death certificate, issued by the Registry of Births, Deaths and Marriages at New South Wales, Sydney, Australia has been placed on record.

4. The testator was a resident of *Flat B-105 First Floor, Chittaranjan Park New Delhi-110019* (*'suit property'*). The wife of the testator i.e. *Mrs. Sheila Chowdry* who had pre-deceased the testator, passed away on 07th February 2013.

5. The fixed place of abode of the testator was the residence at *B-105 First Floor, Chittaranjan Park New Delhi-110019* and therefore, probate has been sought before this Court.

6. Respondent nos.2-3/brothers of petitioner and other sons of testator, have filed their affidavits stating that they have no objection to the probate of the Will.

7. Evidence by way of an affidavit was filed by petitioner. The following documents are stated to have been exhibited:

- i. A true copy of Will dated 07th August 2013- **PW-1/A**.
 - ii. The death certificate dated 22nd March 2023, issued by the authorities in New South Wales and duly attested by the Defence Adviser at the High Commission of India, Canberra-**PW-1/B**
8. List of assets have been filed as **Schedule A** to the petition and citations were directed to be published in two newspapers by order dated 4th October 2023 and was confirmed as being published by order dated 4th November 2023.
9. Affidavit by way of evidence has also been tendered by one of the attesting witnesses i.e. Mr. Bijoy Kumar who states that the testator put his



signature on the Will in his presence, and in the presence of the other witness, and they were present along with the testator before the Sub Registrar-V New Delhi on 7th August 2013.

10. By order dated 2nd December 2022, this Court had issued notice to respondents and by order dated 4th October 2023, directed the SDM to file valuation report. The valuation report was accordingly, filed by the *Assistant Collector Grade-I/II Sub Division (Kalkaji) Distt. South-East, New Delhi* under cover letter dated 28th November 2023.

11. As per the valuation report, the total cost of the property was valued at Rs.1,68,64,531/- (One Crore Sixty-Eight Lakhs Sixty-Four Thousand Five Hundred Thirty-One only).

12. Accordingly, considering that there was no objection from the other legal heirs for grant of probate and all relevant evidence has been placed on record, the Court is satisfied that the Will is authentic and there is no impediment in granting the probate sought by petitioner.

13. Accordingly, the instant petition is allowed. Subject to the petitioner filing the requisite court fee, probate along with a copy of the Will annexed, shall stand granted.

14. The petitioner shall also stand exempted from executing or submitting any administration or surety bond, considering that there is no objection by the other heirs to grant of probate. 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.”

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

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

ANISH DAYAL, J

FEBRUARY18, 2025/RK/NA