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

Date of Decision: 18th September, 2025

+ RFA 802/2025
SEEMA GUPTA

.....Appellant

Through: Mr. Ateev Mathur with Mr. Amol
Sharma, Mr. Sanjay Gupta,
Advocates.

versus

THE STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Sameer Vashisht, Standing
Counsel *via* video-conferencing with
Ms. Nitika Bhutani, Advocate.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

The present appeal raises a straightforward but significant issue in relation to the form in which a court must issue Letters of Administration in exercise of its powers under section 290 of the Indian Succession Act, 1925 ('Succession Act').

2. By way of this appeal under section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908 ('CPC') filed in relation to judgment dated 17.05.2025 passed by the learned District Judge-05, Central District, Tis Hazari District Courts, Delhi in probate case bearing P.C. No. 7 of 2022.
3. It is the appellant's case, that though Letters of Administration dated 17.05.2025 have been issued by the learned District Judge to the appellant in uncontested proceedings, the letters of administration so



issued are not in the form prescribed in Schedule VII to the Succession Act read with section 290 thereof.

4. It is the appellant's grievance that the letters of administration issued contain certain additional phrases and sentences, which are not part of the statutory form prescribed in Schedule VII; and that therefore, the letters of administration issued are required to be amended. The portions of the letters of administration that the appellant points-out relate essentially to the observations of the learned District Judge to the effect that the letters of administration granted do not confer any 'title' to the appellant over the estate of the deceased.
5. To be sure, the appellant *does not say* that the observations contained in judgment dated 14.01.2025 passed by the learned District Judge, to the effect that the issuance of the letters of administration does not confer any title upon the appellant over the estate of the deceased, are required to be struck-off or deleted. The appellant's limited contention is that the letters of administration ought to have been issued, precisely and strictly, in the form set-out in Schedule VII of the Succession Act. Para 18 of the judgment, which the appellant *does not challenge*, reads as follows :

“18. Before parting with judgment, it is hereby clarified that since this Court is not supposed to go into the issue of title of deceased Jagdish Chandra Arora over the subject property, this Court has not examined the issue of ownership of the subject property and accordingly, nothing in the present judgment shall be deemed to have the effect of conferring any title over the subject property to the petitioner. Further, Since this is not for the probate court to exercise its jurisdiction to make an interpretation of the Will, this Court has not examined/ interpreted/constructed the



terms/words of condition/limitation employed in the Will while granting Letters of administration to the petitioner.”

(emphasis supplied)

6. Mr. Ateev Mathur, learned counsel appearing for the appellant has been candid in stating that though the appellant is conscious of the fact that the grant of letters of administration do not amount to conferment of title upon her to the subject property and that the appellant has only been granted the right to administer the estate of the deceased, the words added in the letters of administration issued by the learned District Judge would create a doubt in the mind of a third-party even as to the appellant's right to administer the estate of the testator.
7. Most importantly, counsel for the appellant submits, that it was mandatory for the learned District Judge to have issued the letters of administration *strictly* in accordance with the form contained in Schedule VII of the Succession Act.
8. Since the letters of administration was granted to the appellant in uncontested proceedings, and considering the significance of the legal issue raised, *vidé* order dated 04.09.2025, this court requested the presence of the learned Standing Counsel, Government of NCT of Delhi (respondent) to appear in the matter and state their position on the issue.
9. Pursuant to order dated 04.09.2025, Mr. Sameer Vashisht, learned Standing Counsel (Civil) appeared in the matter on behalf of the respondent.



10. *Apropos* the issue taken-up for consideration in the appeal, Mr. Vashisht has drawn attention to section 290 of the Succession Act, which reads as under :

290. Grant of letters of administration to be under seal of Court — *When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.*

(emphasis supplied)

11. Mr. Vashisht submits, that quite clearly, section 290 of the Succession Act mandates that a court must issue letters of administration only in the form set-out in Schedule VII; and since the statute prescribes a specific form, it is not permissible for a court to modify or change that form in any manner.
12. At this point, Schedule VII to the Succession Act may be noticed :

FORM OF LETTERS OF ADMINISTRATION

I, Judge of the District of [or Delegate appointed for granting probate or letters of administration in (here insert the limits of the Delegate's jurisdiction)], hereby make known that on the day of letters of administration (with or without the will annexed, as the case may be), of the property and credits of, late of deceased, were granted to, the father (or as the case may be) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court, within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.



13. In the present case however, the letters of administration issued to the appellant by the learned District Judge reads as follows :

*“I, *****, Central District, Tis Hazari Courts, Delhi, hereby make known that, in terms of judgment dated 14/01/2025 as passed in ***** titled as “*****”, the Letters of Administration in terms of Will dated 20.03.2019 (copy annexed) qua the estate of deceased namely ***** (schedule of property attached) is granted to the petitioner i.e. Smt. Seema Gupta, *****, she having undertaken to administer the same and to make a full and true inventory of the said property and credit and exhibit the same in this Court, within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credit within one year from the same date, or within such further time as the Court may, from time to time, appoint, failing which the Letters of Administration shall be liable to be revoked, as per Section 263 of the Indian Succession Act. However, the grant of Letters of Administration shall not confer any title over the estate on the petitioner.”*

(names and particulars redacted)

14. Clearly therefore, the following words appearing at the foot of the letters of administration have been added by the learned District Judge and are *not* in conformity with the form set-out in Schedule VII to the Succession Act :

“... ... failing which the Letters of Administration shall be liable to be revoked, as per Section 263 of the Indian Succession Act. However, the grant of Letters of Administration shall not confer any title over the estate on the petitioner.”

15. To examine whether it is permissible for a court to issue letters of administration in a format different from the statutory form prescribed in Schedule VII to the Succession Act, this court would draw-upon the well-settled principle of law laid down by the Privy Council in the



venerated decision in *Nazir Ahmad vs. King-Emperor*,¹ the relevant portion of which decision reads as under :

“... .. The rule which applies is a different and not less well recognized rule—namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.
... ..”

(emphasis supplied)

16. It is pertinent to note that, while elucidating the principles governing statutory interpretation, two different Constitution Benches of the Supreme Court, in *State of U.P. vs. Manbodhan Lal Srivastava*² and *Bhikraj Jaipuria vs. Union of India*³, have held that the legislative intent, together with the object, purpose, and scope of the enactment, must be accorded primacy in determining whether a statutory provision is ‘mandatory’ or ‘directory’ in nature. Relying upon the same canon of interpretation, yet another Constitution Bench of the Supreme Court in *Banarsi Das vs. Cane Commr.*,⁴ has held as follows :

“20. Now the prescription of the law in the present case was that the cane growers and the factory must enter into an agreement in a prescribed form. That form has in fact been used, only there are certain blanks and the appellant has not signed where he was expected to do so. Reliance is placed by the appellant upon a decision of the House of Lords reported in *Thomas v. Kelly* [*L.R.* 13 App. Cas. 506] particularly the observations of Lord Macnaghten where a distinction was made between the words “in accordance with the form” and “in the form”. It is argued that the

¹ 1936 SCC OnLine PC 41

² 1957 SCC OnLine SC 4(5-Judge Bench), para 11

³ 1961 SCC OnLine SC 34 (5-Judge Bench), para 16

⁴ 1962 SCC OnLine SC 201(5-Judge Bench)



Act and the rules in the present case require the agreement to be in the form prescribed and not in accordance with the form. It is submitted that a substantial compliance may be permissible when the words of the statute are “in accordance with the form” but that strict compliance is necessary when the words are “in the form”. The form in *Thomas v. Kelly* [[L.R.] 13 App. Cas. 506] was in a different category from the form which we have. Under the statute, which prescribed the form (a bill of sale), it was provided that a bill of sale given by way of security was void unless made in accordance with the form. The form used there being not in accordance with the form prescribed was held to be void though there are observations to show that if this consequence had not been attached a departure from the statutory form in any thing which was not a characteristic of that form would not have been fatal. In the body of the bill of sale executed in that case there was no description of the things intended to be assigned and this portion was regarded as characteristic of the form prescribed.

“21. There are some cases of this Court in which the prescribed forms have been considered. In two cases under the Representation of the People Act, 1950, the form for making a security deposit which was prescribed, was not strictly followed but it was held that it was merely a matter of form and as there was substantial compliance the penal consequences did not ensue. See *Jagan Nath v. Jaswant Singh* [1954 SCR 892] and *Kamaraja, Nadar v. Kunju Thevar* [1959 SCR 583]. In *Hari Vishnu Kameth v. Syed Ahmed Ishaque* [(1955) 1 SCR 1104] votes not given in the form prescribed were held to be invalid because the form prescribed was considered to be essential and an intention of the voter expressed otherwise than in the form prescribed was considered to be an intention not expressed at all. In *Radhakisson Gopikissan v. Balmukund Ram Chandra* [(1932-33) 60 IA 63] a bye-law provided that contract between agents and their constituents shall be in the form prescribed. It was held by the Privy Council that a literal compliance with the forms was not essential if the contract contained all the terms and conditions set out in the form but it was otherwise if it did not.”

(emphasis supplied)



17. In the present case, section 290 of the Indian Succession Act mandates that if the District Judge (or his delegate) is granting letters of administration, “*he shall grant the same under the seal of his Court in the form set forth in Schedule VII*”. The use of the words “in the form” accordingly indicates the intention of the Legislature to make the provision mandatory, directing the District Judge or his delegate to strictly comply with the contents of what is prescribed in the form set-out in Schedule VII.⁵ Furthermore, since the power to issue letters of administration is vested in the court by statute, such power must be exercised only in the manner prescribed by law; and other modes of doing so are necessarily excluded.⁶
18. It is imperative to recognize the necessity of adhering strictly to the prescribed form in which letters of administration is to be issued by a court. The rationalé for such strict compliance is clear: any departure from the statutory form, as set forth in Schedule VII, whether by way of additions, deletions, or modifications, would confer upon individual judges the unbridled discretion to determine the contents of letters of administration according to their own preferences. Such an approach would contravene the express mandate of the Legislature embodied in Section 290 of the Succession Act. Furthermore, permitting variations in the form, format, or contents of letters of administration issued by different courts would lead to inconsistency and could give rise to unforeseen and undesirable consequences.

⁵ Banarsi Das, para 20

⁶ Nazir Ahmad



19. In view of the above, the present appeal is allowed, thereby directing that the words “*failing which the Letters of Administration shall be liable to be revoked, as per Section 263 of the Indian Succession Act. However, the grant of Letters of Administration shall not confer any title over the estate on the petitioner*”, shall stand omitted from letters of Administration dated 17.05.2025 issued by the learned District Judge-05, Central District, Tis Hazari Courts, Delhi.
20. The appeal stands disposed-of in the above terms.
21. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 18, 2025

ak/V.Rawat