



2026:DHC:1802-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 23.02.2026***+ **FAO(OS) 23/2026 & CM APPL. 11204/2026, CM APPL. 11205/2026, CM APPL. 11206/2026****GURBANI SINGH & ANR.Appellants****Through: Mr. Rahul Shukla, Adv.****versus****DEEPAK SINGH & ANR.Respondents****Through: Ms. Nandni Sahni, Adv. for R1.****CORAM:****HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE RENU BHATNAGAR****JUDGMENT**

1. The present appeal has been filed under Section 299 and 300 of the Indian Succession Act, 1925 assailing the Order dated 08.01.2026 passed by the learned Single Judge of this Court in I.A. 13262/2023 in TEST.CAS. 15/2023, titled '*Deepak Singh v. State & Ors.*' (hereinafter referred to as the 'Impugned Order'), whereby, the learned Single Judge has been pleased to dismiss the application filed by the appellant herein which sought direction to the respondent No.1 herein to produce the Original of the Second Will dated 02.03.2016 (hereinafter referred to as, 'Alleged Will').

2. The brief facts from which the present appeal arises is that the respondent No. 1 herein filed a petition under Section 268 of the



Indian Succession Act, 1925 seeking grant of Letter of Administration of Will dated 02.03.2016, the alleged Will is also dated 02.03.2016, which is claimed to be executed by Late Sh. Govind Singh (father of Respondent No.1's / Appellant's Grand-father) in respect of immovable property bearing no. 12/33, Old Rajinder Nagar, New Delhi (hereinafter referred to as 'Propounded Will').

3. The appellants filed an I.A. No. 13262/2023 seeking production of the original alleged Will dated 02.03.2016, earlier filed by the respondent No.1 in a separate civil suit being CS SCJ/598482/2016 (Old No. CS No.45/15), which is still pending before the Tiz Hazari Court, Delhi, contending that the propounded Will was forged and fabricated, as it does not match with the alleged Will, so that both the originals of propounded Will as well as alleged Will could be sent for forensic examination. Respondent No. 1 took the stand that the said original of the alleged Will was not in his custody and later filed an affidavit stating that it had been lost.

4. *Vide* impugned Order dated 08.01.2026, the learned Single Judge dismissed the said application, holding that production of the original alleged Will dated 02.03.2016 was not necessary at this stage as well as the fact that both Wills bequeathed the Suit property to respondent No. 1, along with the liberty to the appellant herein to file an appropriate application at a later stage, if the need so arises.

5. Aggrieved by the dismissal of their application, the appellants have preferred the present appeal.

6. Heard learned counsel for the parties.

7. Learned counsel for the appellants contends that the learned



Single Judge failed to appreciate that the production of both the original Wills are very much essential for grant of Letters of Administration of the propounded Will dated 02.03.2016. Such deliberate non-production by the respondent no. 1, goes to the root of the matter and renders the propounded Will inherently suspicious and unreliable, and precludes the grant of probate in accordance with law.

8. He submits that once the respondent had admitted the existence of two original Wills, failure to produce the original of Alleged Will warranted the drawing of an adverse inference under Section 114 illustration (g) of the Indian Evidence Act, 1872.

9. It was further argued that the production of both originals was essential not merely for comparison of the signatures but also for examining the tint and age of the paper on which the documents were allegedly executed, which would have a direct bearing on the genuineness of the propounded Will. In this context, it was contended that comparison of the two originals was necessary to ascertain the time and manner of execution of the propounded Will.

10. Lastly, learned counsel for the appellants submits that the observation that production of the original of the alleged will dated 02.03.2016 was not necessary “at this stage” is legally unsustainable, inasmuch as proof of propounded Will must commence with production of the original testamentary documents, and postponement thereof defeats the very purpose of testamentary proceedings.

11. At the outset, it is necessary to reiterate the legal position settled by the Supreme Court regarding the scope of adjudication in proceedings for grant of probate or Letters of Administration.



In *Ishwardeo Narain Singh v. Kamta Devi & Ors.*, (1953) 1 SCC 295, the Apex Court held that the jurisdiction of the Probate Court is confined to examining whether the document propounded as the last Will and testament of the deceased has been duly executed and attested in accordance with law and whether the testator was of sound disposing mind at the relevant time. The Court is not concerned with the validity or otherwise of the bequests contained therein. The relevant portion is reproduced herein below-

*“4. The dismissal of the application for probate on the ground that the disposition in favour of Thakurji is void for uncertainty can on no principle be supported and indeed the learned counsel appearing for the respondent has not sought to do so. **The Court of Probate is only concerned with the question as to whether the document put forward as the last will and testament of a deceased person was duly executed and attested in accordance with law and whether at the time of such execution the testator had sound disposing mind. The question whether a particular bequest is good or bad is not within the purview of the Probate Court.** It is surprising how this elementary principle of law was overlooked by both the courts below. However, as the learned counsel appearing for the respondents has not sought to support this ground nothing further need be said on that.”*

(Emphasis Supplied)

12. In the present case, the petition filed by respondent No. 1 for grant of Letters of Administration in respect of the Will dated 02.03.2016 which is stated to be the last Will of late Shri Govind Singh, has been accompanied by all requisite documents, including the original of the propounded Will dated 03.02.2016. In view of the



limited jurisdiction of the learned Single Judge in testamentary proceedings as discussed herein above, which is confined to examining the due execution and attestation of the Will, we are of the considered opinion that the learned Single Judge rightly exercised discretion in rejecting the appellants' application seeking a direction for production of the alleged second original Will dated 02.03.2016 at this stage.

13. The core grievance of the appellant is that comparison of the two alleged originals is necessary to determine the time and manner of execution of the propounded Will. However, such a direction is not warranted at this stage, particularly when the appellants have already placed on record a certified copy of the said document. The proceedings are still at a preliminary stage and issues have not yet been framed. As rightly observed by the learned Single Judge, the appellants are at liberty to confront the respondents with the certified copy already on record. All questions relating to the authenticity of the propounded Will and the alleged suspicious circumstances are matters to be examined at trial and not at this preliminary stage.

14. As noted hereinabove, the scope of inquiry in testamentary jurisdiction is limited to the due execution and attestation of the Will. It is also not in dispute that in both the Wills dated 02.03.2016 relied upon by the parties, the '*property bearing No. 12/33, Old Rajinder Nagar, New Delhi*' stands bequeathed in favour of respondent No. 1, and there is no difference on that aspect. The trial of the testamentary case is, therefore, not dependent upon the production of the alleged second original will dated 02.03.2016. The appellants may raise all



permissible objections to the genuineness of the propounded Will at the appropriate stage in accordance with law.

15. It is also pertinent to mention that the learned Single Judge has granted liberty to the appellants to move an appropriate application at a later stage, if the need for production of the Original alleged will so arise.

16. In view of the foregoing discussion, we find no any infirmity in the impugned order dated 08.01.2026 passed by the learned Single Judge. The present appeal is devoid of merit and appears to have been filed only to delay the progress of the testamentary proceedings which is filed by respondent No. 1.

17. In view of the aforesaid, we do not find merit in the present appeal. The same is dismissed. All pending application, if any, also stand disposed of.

18. However, we make it clear that no observation made herein above shall affect the merits of the Suit before the learned Single Judge.

VIVEK CHAUDHARY, J

RENU BHATNAGAR, J

FEBRUARY 23, 2026/pr/kz