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IN THE HIGH COURT OF DELHI AT NEW DELHI

TEST.CAS. No.88/2010

VINOD SUDAN Petitioner
Through Mr. Sunil Aggarwal, Adv.

versus

STATE & ORS Respondent
Through

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL

ORDER
29.07.2011

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1. The instant petition was filed under Section 276 of the Indian Succession Act by Shri Vinod Sudan, S/o of late Sh. Ram Kishan for grant of probate of the Will dated 31st January, 2004 stated to have been executed by his father Shri Ram Kishan.
2. The petitioner has arrayed his mother Smt. Ram Pyari who was the widow of the deceased-testator; his brother Shri Banwari Sudan as well as his two sisters namely Smt. Chanchal Sharma and Smt. Neelam Magotra as well as one Shri Kartik Kamboj as respondent nos.2 to 6 respectively.
3. It is submitted that Smt. Ram Pyari was married to Shri Ram Kishan. From their wedlock, they were blessed with two sons who have been arrayed as the petitioner and the respondent no.3 respectively and two daughters arrayed as respondent nos.4 & 5 respectively before this

court.

4. It is pointed out that Smt. Ram Pyari, respondent no.2 who was the mother of the petitioner and respondent nos.3 to 5 also unfortunately expired on 27th July, 2011.

5. In view of the above, it would appear that all the legal heirs of respondent no.2 are already on record and no further steps in this regard are required to be taken.

6. Pursuant to directions made by this court on 26th November, 2010, publication of citation of the petition was effected in the daily edition of the Statesman dated 6th January, 2011.

7. The respondent nos. 2 to 4 have stated that they have no objection to the grant of probate to the present petitioner in the instant case. No objections have been received, objecting to the grant of probate. Shri Vinod Sudan, petitioner; Shri Rajinder Kumar Dhawan & Shri Joginder Singh had appeared as witnesses and their statements were recorded by the Joint Registrar on 11th July, 2011.

8. The petitioner appeared as PW 1. He has proved the original Will Exh.PW 1/2 and signatures of the testator Shri Ram Kishan and the two witnesses namely Joginder Singh & Rajender Dhawan thereon by way of his own affidavit Exh.PW 1/A.

9. It is in evidence that Sh. Ram Kishan died on 11th March, 2009 at 3536, Chhutani Manzil, Nicholson Road, Mori Gate, Delhi. The death

certificate has been exhibited on record as Exh.PW 1/1.

10. The details of the assets of the deceased are mentioned in Schedule 'B' to this petition.

11. Late Sh. Ram Kishan is stated to have executed the Will dated 31st January, 2004 in sound disposing mind as his last Will and testament in the presence of Sh. Rajinder Kumar Dhawan and Sh. Joginder Singh who have filed their examination in chief on affidavits.

12. Sh. Rajinder Kumar Dhawan has appeared as PW 2 and has corroborated the evidence of PW 1 by way of an affidavit Exh.PW 2/A. He has reaffirmed the execution of the original Will Exh.PW 1/2 and pointed out the signatures of Shri Ram Kishan on the Will; that of Shri Joginder Singh at point 'C' as well as his own signatures at point 'B' on the original Will. PW 3 Sh. Joginder Singh has fully supported the statements of PW 1 and PW 2.

13. In view of the above, it is established on record that late Sh. Ram Kishan had validly executed the Will dated 31st January, 2004 Exh.PW 1/2 as his last Will and testament in sound disposing mind. It is also established that the testator has expired on 11th of March, 2009. In the Will dated 31st January, 2004, the petitioner was appointed as its executor.

14. The valuation report from SDM, Sadar Bazar, Delhi has been received which is accepted.

15. There is therefore no legal impediment to the grant of the prayer made in this petition.

16. I, accordingly, hereby grant the probate of the Will dated 31st January, 2004 Exh.PW 1/2 of late Sh. Ram Kishan to the petitioner Shri Vinod Sudan, subject to his furnishing an administration-cum-security bond to the satisfaction of the Registrar General within a period of four weeks.

This petition is allowed in the above terms.

JULY 29, 2011
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GITA MITTAL, J

For & At 14559/2011
U/S 152 A/W/Side