

(2023) 07 DEL CK 0099
In the Delhi High Court
Case No : TEST.CAS. No. 11 Of 2022

Suresh Sachdev

APPELLANT

Vs

Govt Of Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 12-07-2023

Acts Referred:

Indian Succession Act, 1925 — Section 276
Evidence Act, 1872 — Section 68

Citation : (2023) 07 DEL CK 0099

Hon'ble Judges : Rekha Palli, J

Bench : Single Bench

Advocate : Vikas Pandey, Divyam Nandrajog, Jatin Dua, Arpit Singh Arora

Final Decision : Allowed

Judgement

Rekha Palli, J

1. The present petition under Section 276 of the Indian Succession Act, 1925 (hereinafter referred to as the "Act") seeks grant of probate/letters of administration of the "Will" dated 25.09.1987 of late Shri Ramchand Satdev alias Sachdev (hereinafter referred to as "the Testator").

2. It is claimed by the petitioner that the testator was ordinarily residing at O-25, Lajpat Nagar-2, New Delhi. He was blessed with three sons and three daughters and passed away on 01.05.1989. It is claimed that the "Will" was executed by the testator at New Delhi in the presence of two attesting witnesses namely Shri Kumar Bhatia and Shri Arjan M Chablani. It is further claimed that this was last "Will" and testament in respect of all his properties by the testator.

3. Out of the six children of the testator, two sons and two daughters have already expired and, therefore, their legal heirs have been arrayed as respondents alongwith the only surviving daughter. All the respondents have filed their no objection affidavits to the grant of letter of administration in favour of the petitioner. The details of the only immovable asset which is the subject of the

"Will" have been set out in para 3 of the petition and the same has been described as property bearing no. O-25, Lajpat Nagar-2, New Delhi, built on a plot measuring 200 sq. yards under a lease deed dated 18.09.1963 executed by the Land and Development Office, duly registered with the Sub Registrar on 30.09.1963.

4. Vide order dated 02.02.2022, notice was issued in the present petition on which date, citation was also directed to be published in "The Statesman" (English Edition). The said citation was duly published on 05.03.2022 but till date, no objections to the petition have been received from any person whatsoever.

5. The valuation report in respect of the aforesaid property has also been filed by the respondent no.1 on 23.05.2022 and is on record.

6. In support of his case, the petitioner has examined three witnesses. The petitioner, who was examined as PW-1, tendered his affidavit by way of evidence on 21.02.2023. Apart from stating the averments made in the petition, the petitioner has proved the copy of the "Will" dated 25.09.1987, the death certificate dated 01.05.1989 of the testator as also the valuation report.

7. Mr.Kumar Bhatia, the attesting witness to the "Will" was examined as PW-2 on 21.02.2023. He not only identified the signatures of the testator on the "Will" but also categorically stated that he had put his signatures on the "Will" in the presence of the testator and had also witnessed the testator put his signatures on the "Will". He had further stated that the other attesting witness namely Shri Arjan M Chablani has also put his signatures on the "Will" in the presence of the testator.

8. The second attesting witness of the "Will" namely Shri Arjan M Chablani was examined as PW-3 on 04.05.2023. He also filed his evidence by way of an affidavit and testified on the same line as PW-2.

9. In the light of the aforesaid, the petitioner has been able to prove the "Will" as per Section 68 of the Indian Evidence Act which requires that "Will" can be proved by examination of at least one of the two attesting witnesses. In the present case, both the attesting witnesses namely Shri Kumar Bhatia and Shri Arjan M Chablani have deposed that late Shri Ramchand Satdev had signed the subject "Will" in their presence. They have also stated that the subject "Will" was executed voluntarily by the testator who was in sound disposing mind. The unchallenged and unrebutted testimony of the petitioner which is supported by the testimony of the two attesting witnesses, therefore, proves the authenticity of the "Will" dated 25.09.1987 of late Shri Ramchand Satdev alias Sachdev.

10. The petition is, therefore, entitled to succeed and is, accordingly, allowed.

11. Subject to the petitioner filing the requisite Court fees, letters of administration in respect of "Will" dated 25.09.1987 be granted in favour of the petitioner.

12. The petitioner is also granted liberty to apply as per law for return of original documents filed with the petition.