

(2022) 11 DEL CK 0151
In the Delhi High Court
Case No : TEST.CAS. No. 3 Of 2021

Vikram Mehra

APPELLANT

Vs

Govt. Of Nct Of Delhi

RESPONDENT

Date of Decision : 25-11-2022

Acts Referred:

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

Citation : (2022) 11 DEL CK 0151

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Manish Makhija, K.G. Gopalakrishnan, Nisha Mohan Das

Final Decision : Allowed

Judgement

Neena Bansal Krishna, J

1. The present petition under Section 276 of the Indian Succession Act, 1925 has been filed on behalf of the petitioner, Vikram Mehra seeking grant of Probate of the registered Will dated 23rd May, 2011 of Late Smt. Pushpa Mehra, wife of Shri Satya Pal Mehra.

2. Facts in brief are that Smt. Pushpa Mehra was married to Shri Satya Pal Mehra and from their wedlock one son and two daughters were born, namely, the petitioner, Vikram Mehra, respondent No. 2-Ritu Kapur, and Late Smt. Radhika Singh. The respondent Nos. 3(a)-Jasraj Singh and 3(b)-Karan Singh are the legal heirs of Late Smt. Radhika Singh.

3. It is asserted that the petitioner along with his mother Late Smt. Pushpa Mehra was the co-owner to the extent of 50% undivided share in Property bearing No. B-26, West End Colony, New Delhi-110021 (hereinafter referred to as "subject property"). During her lifetime, Late Smt. Pushpa Mehra resided in the said property along with the petitioner and his family. After her demise, the petitioner and his family continued to be in occupation of the entire property.

4. Late Smt. Pushpa Mehra died on 23th Decmeber, 2019 in Delhi. She executed a registered Will dated 23rd May, 2011 in respect of her share in the subject property and bequeathed the suit property to the petitioner exclusively. The petitioner has also been appointed and named as the Executor of the Will. The present petition has thus been filed for grant of Probate of the registered Will dated 23rd May, 2011 of Late Smt. Pushpa Mehra.

5. The citation was published in one Hindi and one English newspaper having wide circulation in NCR and Mumbai. No objections have been received pursuant to the citation.

6. The respondent Nos. 3a-Jasraj Singh and 3b-Karan Singh were duly served despite which they failed to appear.

7. The respondent No. 2-Ritu Kapur has submitted her 'No Objection' to the grant of Probate in favour of the petitioner.

8. Vide Order dated 07th January, 2022, the issues were framed which read as under: -

"1. Whether the petitioner is entitled to a Probate of the Will dated 23rd May, 2011 of Late Smt. Pushpa Mehra? OPP

2. Relief."

9. The petitioner in support of his case examined three witnesses. PW1/Amit Kumar Vohra is the attesting witness who has approved the Will dated 23rd May, 2011 Ex.PW1/1 and has identified his signatures on the Will at Point-A, the signatures of Shri Ravinder Kumar, the other attesting witness at Point-B and of the Testator-Pushpa Mehra at Point-C. The affidavit of evidence of PW1/Amit Kumar Vohra is Ex. PW1/2.

10. PW2/Ravinder Kumar is the second attesting witness who has corroborated the testimony of PW1/Amit Kumar Vohra.

11. PW3/Vikram Mehra, the petitioner has proved the Death Certificate Ex. PW3/2 of Late Smt. Pushpa Mehra. The certified copy of the Will is Ex. PW1/1. No Objection Certificate given by the respondent No. 2-Ritu Kapur is Ex. PW3/3. The Conveyance Deed dated 08th March, 2010 in respect of the subject property is Ex.PW3/4. The Mutation Letter dated 22nd August, 2020 is Ex.PW3/5. The Aadhar Card of the petitioner-Vikram Mehra is Ex. PW3/5.

12. Submissions heard.

Issue-wise findings are as under:

1. Whether the petitioner is entitled to a Probate of the Will dated 23rd May, 2011 of Late Smt. Pushpa Mehra? OPP

13. The uncontested testimony of the petitioner has proved the Will as Ex.PW1/1. It is deposed by the petitioner that it is the last and final Will of

deceased Smt. Pushpa Mehra

14. Section 68 of the Indian Evidence Act, 1872 requires the Will to be proved by examination of at least one of the two witnesses. PW1/Amit Kumar Vohra and PW2/Ravinder Kumar are the two attesting witnesses, who had deposed that Late Smt. Pushpa Mehra had signed in their presence at Point C.

15. The petition is not contested by respondent No.2-Ritu Kapur, the other legal heir of deceased Smt. Pushpa Mehra and has given her "No Objection Certificate" which is Ex.PW3/3. The respondent Nos.3a and 3b are the legal heirs of Late Radhika Singh, the second sister of the petitioner-Vikram Mehra, who have failed to appear despite service.

16. The citation has been carried out in the Newspapers and no objection has been received from any third person.

17. The unchallenged and unrebutted testimony of the petitioner which is supported by the testimony of two attesting witnesses, namely, PW1/Vikram Kumar Vohra and PW2/Ravinder Kumar proves the authenticity of Will dated 23rd May, 2011 of Late Smt. Pushpa Mehra. The petitioner being the son and sole beneficiary and also the Executor is entitled to the Probate of the Will.

18. Issue No. 1 is decided in favour of the petitioner.

2. Relief.

19. The Probate in respect of the Will dated 23rd May, 2011 is hereby granted to the Petitioner, subject to payment of requisite stamp duty/court fees.

20. The petitioner shall furnish Administrative bond with one surety to the satisfaction of the Registrar General of this court.

21. The valuation filed by the SDM concerned, is on record.

22. On payment of the requisite court fee and other formalities noted above, the Probate in respect of the Will dated 23rd May, 2011 be issued by the Registry.

23. The petition stands allowed of in the above terms.