

**NavIn Sikand Vs. State and ors.**

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**Court :** Delhi

**Decided On :** Feb-10-2014

**Judge :** Valmiki J. Mehta

**Appellant :** NavIn Sikand

**Respondent :** State and ors.

**Judgement :**

\* IN THE HIGH COURT OF DELHI AT NEW DELHI + % NAVIN SIKAND FAO No.9/2013 Through:

10. h February, 2014 .....Appellant Mr. Vinod Wadhwa, Advocate. VERSUS STATE & ORS. Through: ..... Respondent Mr. Amit Tiwari, Adv. of LR No.4 of R-3. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. By the impugned order of the Administrative Civil Judge-cum- Additional Rent Controller (Central Delhi) dated 17.10.2012, the petition seeking succession certificate to the debts and securities of the deceased persons namely Sh. R.D.Sikand, Smt. Neera Sikand and Master Munish Sikand (being husband, wife and son respectively) was dismissed inasmuch as the petitioner Sh. Navin Sikand was having a later priority/entitlement as legal heir as the son of the second wife of Sh. Amar Chand Sikand, father of Sh. R.D.Sikand i.e Navin Sikand was only related by half blood to the legal heirs of Sh. Amar Chand Sikand through

his first wife Smt. Prakash Kaur, and that legal heirs who were related by full blood; namely the real sisters of Sh. R.D. Sikand; were alive at the time of death of Manish Sikand-the last surviving member in the family of Sh. R.D. Sikand . To appreciate the facts, the following family tree is relevant:Amar Chand Sikand Wife (1) Prakash Kaur died in 1936 Saristha Bhakru(Daughter) died on 4.12.04 Son:Pravin Bhakru Son:Anil Bhakru Son: Dhanesh Bhakru Son: Nitin Bhakru 2. R.D.Sikand (son) Died on 30.5.98 Wife (2) Saraswati Vimla Raj Kumar (daughter) Died in 2007 Wife: Neera Sikand Died on 11.3.01 Son: Munish Sikand Died on 14.8.2003 Navin Sikand (son) Promila Sikand (daughter) Son: Rajiv Kumar Son: Rakesh Kumar Learned counsel for the appellant states he has no grievance with the impugned judgment when it dismissed the succession certificate petition because the appellant/ petitioner in view of Section 18 of the Hindu Succession Act, 1956 would not have a right to the properties of Sh. R.D.Sikand and his family members because he is only half blood, and since at the time of the death of Sh. R.D.Sikand and his wife and son, the sisters of Sh. R.D.Sikand namely Smt. Saristha Bhakru and Smt. Vimla Raj Kumar were alive, however, what is argued is that once the succession certificate petition was dismissed it could not be continued for the benefit of the objector-Sh. Pravin Bhakru-respondent no.3(v)s by fixing the case for recording his evidence for proving the debts and securities of late Sh. R.D.Sikand and his family members. I may note in the memo of parties, there is a mistake and Sh. Pravin Bhakru who is shown as respondent no.3(v), should be shown as respondent No.3, and in fact other legal heirs of Ms. Saristha Bhakru should be shown as respondent nos. 4 to 6. Correct memo of parties now be filed by the appellant to this effect.

3. I agree that once the succession certificate petition of the present appellant was to be dismissed as petitioner was not having any locus standi as sisters of Sh. R.D.Sikand were alive when his son Sh. Munish Sikand expired on 14.8.2003, however, if there is an entitlement in the objector-Sh. Pravin Bhakru to claim the succession certificate, that objector namely Sh. Pravin Bhakru will have to file an independent petition for succession certificate for claiming the debts and securities left behind by late Sh. R.D.Sikand, and which thereafter devolved upon his wife Smt. Neera Sikand and ultimately upon Sh. Munish Sikand, son of Sh. R.D.Sikand and Smt. Neera Sikand, and who expired last on 14.8.2003.

4. I may state that I am making no comment in one way or the other on the entitlement of Sh. Pravin Bhakru to the estate of Sh. R.D.Sikand and his family members and this aspect will be decided in appropriate proceedings which would be initiated by the said Sh. Pravin Bhakru/objector.

5. I may state that counsel for respondent no.3/Sh. Pravin Bhakru sought to argue before me that appeal would not lie under Section 384 of the Indian Succession Act, 1925 against the impugned judgment because it is only when a succession certificate is refused that an appeal can be filed, however, this argument is misconceived because by dismissing the petition for succession certificate, obviously the succession certificate is refused and thus this appeal is maintainable under Section 384 of the Indian Succession Act.

6. In view of the above, the appeal is dismissed to the extent that the succession certificate petition must revive, however, all proceedings in the succession certificate petition will come to an end and the last four lines of para-9 of the impugned judgment dated 17.10.2012 are also quashed whereby the case was fixed for objectors/Sh. Pravin Bhakrus evidence. Appeal is accordingly disposed of and dismissed, subject to aforesaid observations, leaving the parties to bear their own costs. FEBRUARY10 2014 ib FAO No.9/2013 VALMIKI J.

**MEHTA, J.**

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