

indu Soni Vs. State and Others

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Court : Delhi

Decided On : Sep-15-2014

Judge : G. S. Sistani

Appellant : indu Soni

Respondent : State and Others

Judgement :

\$~48. * IN THE HIGH COURT OF DELHI AT NEW DELHI + TEST.CAS. 28/2013
% Judgment dated INDU SONI Through :

15. 09.2014 Petitioner Ms.Deeksha L. Kakkar, Adv. versus STATE AND OTHERS Through : Respondents Mr.Mritunjay Kumar Singh, Adv. for Objector, Ms.Uma Sharma. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI G.S.SISTANI, J (ORAL) 1. Present petition has been filed by petitioner under Section 372 of Indian Succession Act, 1925, for grant of succession certificate in favour of the petitioner with respect to movable assets of late Sh.Jagdish Kumar Soni.

2. According to the petitioner, the testator, Sh.Jagdish Kumar Soni died intestate leaving behind his wife and three daughters. This petition is filed by the wife and daughters have been arrayed as respondents no.2 to 4. Respondents no.2 to 4 have filed their affidavits deposing that they have no objection if a succession certificate is issued in favour of the petitioner herein with respect to the movable

properties.

3. Objections have been filed in this petition by one, Ms.Uma Sharma who relies on a Will dated 4.7.2012 of late Sh.Jagdish Kumar Soni, which is also a subject matter of Test Cas.No.59/2013. As per the Will dated 4.7.2012, which is disputed by the petitioner and her daughters a sum of Rs.25.00 lakhs has been bequeathed to her and further a factory premises measuring 800 sq. yards at Plot No.B-119, Road No.13, Block No.2, Kant Enclave, Faridabad, has been bequeathed to the brother of the deceased, Mr.Ashok Kumar Soni (petitioner in Test Cas.No.59/2013).

4. Mr.Chetan R. Anand, learned counsel for the petitioner in Test Cas.No.59/2013, who is present in Court, submits that, without admitting that Mr.Jagdish Kumar Soni had died intestate, his clients can have no objection with regard to the movable assets of Mr.Jagdish Kumar Soni, as in the Will dated 4.7.2012, relied upon by Mr.Ashok Kumar Soni, the movable assets have been bequeathed to the wife of Mr.Jagdish Kumar Soni.

5. Learned counsel for Ms.Uma Sharma, Objector, submits that so long as Rs.25 lacs are kept aside, he has no objection to the grant of succession certificate.

6. I have heard counsel for the parties. According to the petitioner and respondents no.2, 3 and 4, who are wife and daughters of late Sh.Jagdish Kumar Soni, late Sh.Jagdish Kumar Soni died intestate. Objections have been filed by one Ms.Uma Sharma. According to Ms.Uma Sharma, Sh.Jagdish Kumar Soni left behind a Will, as per which he bequeathed Rs.25.0 lacs to her. Another petition being Test Case No.59/2013 has been filed by the brother of late Sh.Jagdish Kumar Soni seeking probate. The petitioner and her daughters, i.e. respondents no.2, 3 and 4 have strongly urged before this court that their mother has no source of livelihood and till the time the Test Case No.59/2013 is decided, they are willing to deposit Rs.25.0 lacs in this court.

7. It may be noticed that when Sh.Jagdish Kumar Soni died all the three daughters were of marriageable age and the wife was a housewife with no source of livelihood. It is, thus, prayed that the succession certificate may be granted in

favour of the petitioner to enable the petitioner to utilise the money left behind her husband to make her day-to-day needs.

8. In case the Will set up by Mr.Ashok Kumar Soni is proved, Ms.Uma Sharma would be entitled to Rs.25.0 lacs. In this backdrop and since no objections to the grant of a succession certificate have been filed (except Uma Sharma), the present petition is allowed. As agreed, Succession Certificate with respect to movable assets of late Sh.Jagdish Kumar Soni be granted in favour of the petitioner, subject to petitioners furnishing administrative bond and necessary court fees.

9. The Bank of India, Saket Branch (Saving Bank Account No.A604510110009239), is directed to deposit Rs.25.00 lakhs with the Registrar General of this Court within four weeks from today, which amount shall be kept in a fixed deposit to be renewed periodically till further orders from this Court. The amount together with interest shall be released in favour of Ms.Uma Sharma upon a final decision is passed in Test Cas.No.59/2013. It is also agreed between the parties that grant of succession would not be a final adjudication between the parties with regard to the factum of Will dated 4.7.2012, which is subject matter of Test Case No.59/2013. 10.Petition stands disposed of in above terms.
G.S.SISTANI, J SEPTEMBER15 2014 msr

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