

Praveen Sharma Vs. State

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Court : Delhi

Decided On : Nov-19-2014

Judge : Manmohan Singh

Appellant : Praveen Sharma

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Order delivered on:

19. h November, 2014 % + TEST CASE NO.84/2013 PRAVEEN SHARMA Through Petitioner Mr. Rajat Aneja, Adv. with Ms. Rashmi Verma and Ms. Chandrika Gupta, Adv. versus STATERespondent Through None CORAM: HON'BLE MR.JUSTICE MANMOHAN SINGH MANMOHAN SINGH, J.

(Oral) 1. The petitioner has preferred the present probate petition under Section 276 of the Indian Succession Act (hereinafter referred to as the Act) for grant of probate/letters of administration in respect of the registered Will dated 15th May, 1998 executed by Late Pandit Sham Lal Sharma (hereinafter referred to as the deceased) who died on 28th January, 2004 at Delhi.

2. It has been stated by the petitioner, daughter-in-law of the deceased that the deceased left behind the following class I heirs: (i) Smt. Krishna Devi (widow). (ii) Shri Kulbhushan Sharma (Son). (iii) Shri Jai Prakash (Son). (iv) Smt. Nisha (grand-daughter). (v) Smt. Praveen Sharma(daughter-in-law), petitioner herein. A

list of the near relations of the deceased are set out at page Nos. 14 & 15 of the petition.

3. It is stated that the deceased was the owner of half portion of the property bearing No.H-34, Main Market, Rajouri Garden, New Delhi- 110027 (hereinafter referred to as the suit property) which devolved upon him after the death of his father, Late Shri Ganesh Dutt Sharma. The remaining half share devolved upon the brother of the deceased. Vide Judgment and decree dated 21st December, 2012, this Court in CS(OS) No.306/2000 titled as Pt. Sham Lal Sharma vs. Uttam Chand Sharma the said property was partitioned in terms of the site plan filed by the parties therein on the basis of a joint application filed under Order 23 Rule 3 CPC in that suit. Though the suit was filed in the year 2000 by the deceased against his brother for partition, during the pendency of the suit, the deceased expired on 28th January, 2004 and thereafter the said suit was pursued by the petitioner herein and none of the legal heirs of the deceased had any objections thereto.

4. As per the said Will, the suit property of which the deceased is the owner, has been bequeathed upon the petitioner. The particulars and description of the estate of the deceased which is likely to come into hands of the petitioner has been set out in List A to the petition.

5. Notice of the petition was issued vide order dated 18th November, 2013. Vide the same order citations were also directed to be published in the English daily Statesmen and one Hindi daily Jan Satta.

6. Issues in this matter were framed vide order dated 24th January, 2014. Citations were published in the above-said newspaper on 27th June, 2008. Valuation reports dated 1st April, 2014 giving valuation of half of the suit property and valuation report dated 23rd January, 2014 giving valuation of whole of the suit property have been filed.

7. In the course of proceedings, an application being I.A. No.6677/2014 was filed by the petitioner seeking modification of order dated 18th November, 2013 to the extent of change of name of newspaper from Jan Satta to Veer Arjun for the

purpose of publication of citation. It was contended that the petitioner is a poor person and cannot afford the expenses of the newspaper Jan Satta. The said application was allowed and order dated 18th November, 2013 was modified accordingly vide order dated 4th July, 2014.

8. Evidence by way of affidavit was filed on behalf of the petitioner, as Exhibit PW-1/X and was examined as PW-1 to prove the contents of the petition. Certain documents exhibited as Ex.PW-1/1 to Ex. PW-1/13 in support of its case are filed and the same are as follows : (i) Original Death Certificate of Late Pandit Sham Lal Sharma, exhibited as Exhibit PW-1/1. (ii) True copy of the Will dated 15th May, 1998, exhibited as Exhibit PW-1/2. (iii) List of near relations of Late Pandit Sham Lal Sharma, exhibited as Exhibit PW-1/3. (iv) Declaration of Shri Manoj Kumar, one of the attesting witness to the Will dated 15th May, 1998, exhibited as Exhibit PW-1/4. (v) Affidavit of Shri Manoj Kumar, exhibited as Exhibit PW-1/5. (vi) Certified Copy of order dated 21st December, 2012, exhibited as Exhibit PW-1/6. (vii) No-objection affidavit filed on behalf of Smt. Krishna Devi (widow of the deceased), exhibited as Exhibit PW-1/7. (viii) No-objection affidavit filed on behalf of Shri Kulbhushan Sharma (Son of the deceased) exhibited as Exhibit PW-1/8. (ix) No-objection affidavit filed on behalf of Shri Jai Prakash (Son of the deceased) exhibited as Exhibit PW-1/9. (x) No-objection affidavit filed on behalf of Smt. Nisha (granddaughter of the deceased) exhibited as Exhibit PW-1/10. (xi) The particulars and description of the estate of the deceased likely to come into hands of the petitioner as well as liabilities of the petitioner, exhibited as Exhibit PW-1/11 and Exhibit PW-1/12 respectively. (xii) Valuation report dated 21st October, 2013, exhibited as Exhibit PW-1/13.

9. Evidence by way of affidavit was also filed on behalf of Shri Manoj Kumar, attesting witness to the Will dated 15th May, 1998 as Exhibit PW-2/X, who was examined as PW-2.

10. PW-1 and PW-2 were examined and discharged vide order dated 13th August, 2014.

11. Subsequently, Desh Bandhu Gosain, UDC, Sub Registrar II, Basai Dara Pur, Delhi was examined as PW-3, who brought the summoned record in respect of

Will dated 15th May, 1998. He was examined and discharged vide order dated 9th October, 2014. Petitioners evidence was also closed vide order dated 9th October, 2014.

12. Having considered the facts of the case as well as documents placed on record, it appears that the Will dated 15th May, 1998, has been proved beyond doubt. Original Will was also produced at the time of hearing. Under these circumstances, the present petition is allowed. The probate is granted in favour of the petitioner qua the Will dated 15th May, 1998, in respect of the suit property i.e. half of the property bearing No.H-34, Main Market, Rajouri Garden, New Delhi110027.

13. The valuation given by the petitioner herself in List A filed alongwith the petition at Page 16 is accepted.

14. Accordingly, the petition is allowed. The probate is granted in respect of the Will upon the petitioner filing the requisite court fee.

15. The probate stands disposed of. (MANMOHAN SINGH) JUDGE
NOVEMBER19 2014

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