

A.K. Sharma Vs. State

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Court : Delhi

Decided On : Jul-25-1996

Reported in : 1996IVAD(Delhi)801; 63(1996)DLT486; 1996(38)DRJ395

Judge : Anil Dev Singh, J.

Acts : [Succession Act, 1925](#) - Sections 276

Appeal No. : Probate Case No. 35 of 1992

Appellant : A.K. Sharma

Respondent : State

Advocate for Pet/Ap. : M.K. Chatterjee, Adv

Judgement :

Anil Dev Singh, J.

(1) This is a petition under section 276 and 278 of the Indian Succession Act, 1955, for the grant of probate of the will executed by the deceased Dr. B.P. Pal. The facts as appearing from the petition are as follows :-

(2) Dr. B.P. Pal, a bachelor, died on September 14, 1989, at New Delhi, at the age of 85 years. His parents predeceased him and he is not survived by any blood relations. At the time of his death he was possessed of both movable and

immovable properties. Except residential house at Shimla, the other properties are his self acquired properties. The Shimla property was bequeathed to him by his sister-in-law Mrs. Shukla Hari Dass and in respect thereof probate has already been granted in favor of the Indian Agricultural Research Institute, New Delhi. Dr. Pal left behind a will dated January 28, 1987 being his last will and testament and by virtue of which he bequeathed his properties both movable and immovable in favor of various persons. The petitioner herein has been named as one of the executors of the will. By this application the executor has applied for grant of letters of administration/probate in respect of the aforesaid will.

(3) The will has been proved by Dr. Dadlani, Senior Scientist, one of the attesting witnesses. As per statement of Dr. Dadlani, Dr. B.P. Pal died on September 14, 1989, leaving behind a will dated January 28, 1987 (Ext. 'X'). In this regard he has stated that the will was executed by Dr. Pal in his presence. Apart from his (Dr. Dadlani) signatures it also bears the signatures of Dr. Brijendra Singh as an attesting witness. It is further stated that Dr. B.P. Pal signed the will in the presence of both the witnesses, and they had signed as attesting witnesses in the presence of Dr. B.P. Pal. The witness also proved the signatures of Dr. Brijendra Singh as he was his senior colleague and they were working together. The witness further stated that Dr. B.P. Pal was possessed of sound disposing mind at the time of execution of the will.

(4) It may be pointed out that the objections to the petition have been filed by Miss Rosemarie Pal (respondent No.5), Ramsay Pal (respondent No.6) and Mrs. V. Ponnampereuma (respondent No.7). It is clear from their objections that the said respondents do not claim or wish to accept the sum of Rs.20,000.00 left to each of them as per the will and their only submission is that there should be a specific order that in case the properties at Shimla and at Huaz Khas, New Delhi, are sold, they should have the first option to purchase the same.

(5) Objections have also been filed by respondent No.2 Smt. P.P. Trivedi in which it is, inter alia, stated that the will dated January 28, 1987 was executed by Dr. B.P. Pal and the petitioner herein is one of the executors thereof. The said respondent has specifically admitted that the will in question is the last will and

testament of the deceased. It is further admitted that the deceased was a bachelor; that he died at the age of 85 and that at the time of his death his parents had pre-deceased him. None of the remaining respondents have filed their replies or objections to the petition.

(6) On November 28, 1995, the learned counsel for respondents 5 to 7 stated that he does not wish to press the objections. Thus, it is apparent that none of the parties have any objection to the grant of probate and this was so recorded by my predecessor in his order dated February 15, 1996.

(7) Having regard to the aforesaid position and in view of the statement of the attesting witness Dr. N.K. Dadlani, who has proved the will, the petition succeeds and the probate of the will is granted in favor of the petitioner in respect of the will Ext. 'X' executed by the deceased Dr.B.P. Pal in respect of his moveable and immovable properties subject to payment of estate duty and filing of the requisite indemnity bond. The probate of the will hereby granted will have effect over all the properties moveable and immovable of the deceased within the territorial jurisdiction of this court.

(8) The petitioner will prepare an inventory of the property and credits of the deceased and exhibit the same in this Court within six months from the date of this grant. The petitioner will also render to this Court a true account of the said property and credits within one year from the same date.

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