

K.C. Aggarwal Vs. State

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Court : Delhi

Decided On : Sep-15-1995

Reported in : 60(1995)DLT446

Judge : Devinder Gupta, J.

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

Appeal No. : Probate Case No. 26 of 1992

Appellant : K.C. Aggarwal

Respondent : State

Advocate for Pet/Ap. : K.K. Khaitan and; S.S. Jain, Advs

Judgement :

Devinder Gupta, J.

(1) This is a petition under Section 276 of the Indian Succession Act for grant of probate of will dated 18th June, 1991 of Smt. Chhaya Aggarwal, petitioner's wife.

(2) Notice was directed to be issued to the relations and beneficiaries, whose particulars are mentioned in para-5 of the petition. Citation was also published in 'The Statesman'. Chief Revenue Controlling Authority Was also notified of the petition. In pursuance to the citation and notice objections have not been

preferred. As per report of the Chief Revenue Controlling Authority, property was located within the jurisdiction of District Collector, Kanpur. Report was sought from the District Collector, Kanpur, who reported the estimated value of the immovable property of the deceased, referred to in Annexure-A, namely. House No. A-6, Sarvodaya Nagar, Kanpur, U.P. at Rs. 80,00,000.00, including the value of the land on which the house stands. The deceased had 1/4th share in the property. Accordingly, the approximate value, as per report of the District Collector, Kanpur would be Rs. 20,00,000.00 of the share of deceased.

(3) The petitioner has adduced evidence on affidavits. In addition to his own affidavit, two affidavits of the attesting witnesses, namely, Shri K.C. Bhalla and Dr. O.P. Arora have been placed on record.

(4) From the material on record and from the depositions made in the affidavits, it stands established that Smt. Chhaya Aggarwal expired on 21st August, 1991. She was residing at C-19, Green Park, New Delhi. On 18th June, 1991 Will Ex. P.1 was duly executed by her in presence of the aforementioned attesting witnesses bequeathing her movable and immovable properties in favor of her daughter-in-law Smt. Meenakshi Aggarwal (wife of Shri Kamal Aggarwal son of the deceased), petitioner Shri K.C. Aggarwal (husband of the deceased) and Rajat Aggarwal (son of the deceased), as per details given in the Will. Shri K.C. Aggarwal is the named Executor of the Will for giving effect to the Will. Both the attesting witnesses have further testified that the deceased was in sound and disposing state of mind at the time of making of the Will. It was signed after correctly understanding the contents thereof, in their presence and they also signed the Will as attesting witnesses in presence of each other and in presence of the testatrix. It is also stated in the affidavit of the petitioner that the Will Ex. P.1 is the last testamentary deposition of the deceased as regards her movable and immovable properties. Copy of death certificate has also been placed on record.

(5) From the material on record, I am satisfied that petitioner is entitled to the grant of probate of Will Ex. P.1. The petition is allowed. Necessary probate of Will EX. P.1 be issued with copy of the Will Ex. P.1 annexed thereto, in accordance with law.