

Kaushalya Mehta Vs. State

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Court : Delhi

Decided On : Dec-05-2001

Reported in : 95(2002)DLT745

Judge : J.D. Kapoor, J.

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

Appeal No. : Probate Petition No. 19/1994

Appellant : Kaushalya Mehta

Respondent : State

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Rajesh Kumar, Adv

Judgement :

J.D. Kapoor, J.

1. This is a petition under Section 276 of the [Indian Succession Act, 1925](#) for grant of probate to the last will and testament of late Shri Hans Bali son of late Shri Chiranji Lal Bali.

2. It is averred that Shri Hans Bali died issueless on 2nd August, 1992 whereas his wife has pre-deceased him. The brother of Shri Hans Bali namely Shri Dev Dutt

Bali also died issueless in 1948. Shri Hans Bali, the deceased was in possession of the moveable and immovable assets, details of which have been given in Annexure-C. The Will was duly notarised before the Notary Public in the presence of Shri Sunil Dutt Bali and Smt. Kiran Dutta.

3. The notice of the petition was issued and served by way of publication to the general public. Nobody has filed any objection to the present petition. Since the deceased has some movable properties at Calcutta, a Local Commissioner was appointed for opening the lockers and preparing the inventory of the articles.

4. In order to prove the aforesaid facts and the execution of the will by deceased, the petitioner has examined three witnesses including herself. The petitioner has proved the following documents:

1. Exhibit PW-1/1 is the death certificate of Shri Hans Bali issued by the Registrar:
2. Exhibit PW-1/2 is the death certificate of Smt. B.Bali, wife of Shri Hans Bali issued by the Registrar.
3. Annexure-D is the Will.
4. Exhibit PW-1/4 is the list prepared by the Local Commissioner.
5. Exhibit PW/1/5 is the valuation report.
6. Exhibit PW-1/6 is the amended statement of properties.
7. Exhibit PW-1/7 is the document in which the will has been proved.

5. The petitioner has identified the signatures of the deceased on the Will. PW-2 Mrs. Kiran Dutta who is one of the attesting witnesses has deposed that the deceased was personally known to her and her husband and had signed and executed the Will in her presence and in the presence of Shri Sunil Dutta Bali. PW-3 Shri Sunil Dutt Bali has corroborated his co-witness. Both the witnesses have stated that the deceased was in sound and disposing mind at the time of the execution of the Will. The deceased at the time of the execution of the Will had been residing at Delhi. Some of the properties in respect of which the Letter of

Administration is sought are also at Delhi.

6. It is averred that the deceased was not having his fixed place of residence. Sometimes he was residing at Delhi and sometimes at Calcutta. According to the petitioner, before his death the deceased was residing at Vasant Kunj, New Delhi and the petitioner had been rendering all sorts of services and looking after the deceased.

7. As regards the jurisdiction of this Court it is settled law that where an application for grant of Letter of Administration is made to the Court within whose jurisdiction the deceased had no fixed place of bode but has a small portion of the property situated within the jurisdiction of that court the said Court can entertain such an application. This view finds support from the following two cases:-

(i) Babu Devi Baksh Singh v. Ashtbhuja Rattan Kanwar reported as : AIR1937 All670 and

(ii) Govind v. Anand reported as AIR 1923 Nag 145.

8. The deposition of the aforesaid witnesses and the documents proved show that t he deceased Shri Hans Bali had lastly executed the Will(Annexure-D). The petitioner is the close relation of the deceased. The deceased died issueless. So much so his wife also pre-deceased him and his brother also pre-deceased him. The said brother also died issueless.

9. The aforesaid facts establish the claim of the petitioner for grant of the Probate in favor of the petitioner. Accordingly the petition is allowed and the probate is granted in respect of the assets and the properties mentioned in Annexure-C of the petition.

10. The requisite Court fee shall be filed within two weeks.

11. The Probate Petition stands disposed off.