

Raghubir Singh Vs. State

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Court : Delhi

Decided On : Nov-07-2012

Judge : Rajiv Sahai Endlaw

Appellant : Raghubir Singh

Respondent : State

Advocate for Pet/Ap. : Mr. Saurabh Tiwari

Judgement :

*IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

7. h November, 2012 % + TEST. CAS. 79/2008 RAGHUBIR SINGH Through: Petitioner Mr. Saurabh Tiwari, Adv. versus STATE Respondent Through: None. CORAM :HONBLE MR. JUSTICE RAJIV SAHAI ENDLAW RAJIV SAHAI ENDLAW, J 1.This petition is filed under Section 278 of The Indian Succession Act, 1925 seeking Letters of Administration to the estate of Shri Pradeep Singh, S/o Shri Balbir Singh, R/o M-71, Greater Kailash 1 (Market), New Delhi 110048 who is stated to have died intestate on 10 th November, 2005 leaving behind his mother Mrs. Swaran Kaur, his widow Mrs. Amarjit Kaur and two sons i.e. the petitioner and Shri Jasmeet Singh, as his only legal heirs. The estate qua which Letters of Administration are sought is stated to comprise only of House not LIG-5237 EF, Patiala.

2. Notice of the petition was issued to the State through the Standing Counsel, to respondent no.2 and respondent no.3 and also to Chief Revenue Controlling Authority, Patiala for submission of valuation report qua the estate of the deceased. Publication was also directed to be made in the newspaper Punjab Kesari Patiala edition. The order sheet dated 18th November, 2008 records that publication had been effected and citation thereof had been received in the Court and that the respondent no.1 State and the respondent no.2 Ms. Amarjit Kaur had been served but none had appeared on their behalf, fresh notices were issued to the Chief Revenue Controlling Authority, Patiala as well as other respondents. The order sheet dated 24th March, 2009 records that all the respondents had been served and none had appeared on their behalf. Subsequently, the report of the Chief Revenue Controlling Authority, Patiala was already received, as noted in the order dated 20th May, 2011. Finding that no objections had been received to the petition inspite of service, vide order dated 23 rd August, 2011 the petitioner was permitted to lead evidence on affidavits before the Joint Registrar.

3. The petitioner has filed his affidavit by way of evidence which on tendering was given Exhibit PW-1/A. The petitioner in the said affidavit has deposed / proved, i) that Shri Pradeep Singh was his father who died on 10th November, 2005; ii) the Death Certificate issued by the Government of NCT of Delhi showing the place of death as Mool Chand Hospital, Delhi as Exhibit PW-1/1; iii) that the said Shri Pradeep Singh left his mother, widow and two sons including the petitioner as his only legal heirs; iv) that Shri Pradeep Singh was the owner of immovable property bearing House no. LIG-5237 EF, Patiala, Punjab; v) No Dues Certificate dated 24th May, 2002 issued by the Punjab Urban Planning and Development Authority, Patiala certifying that full tentative price of `1,19,800/- of the said flat had been received and copy whereof was sent to Shri Pradeep Singh at the address of M-71, First Floor, Greater Kailash 1 (Market), New Delhi as Exhibit PW-1/2; vi) the PF - Possession Slip of handing over of the said flat to Shri Pradeep Singh by the Housing Commissioner on 11 th November, 1997 as Exhibit PW-1/3. The petitioner further deposed that, vii) his grandmother Mrs. Swaran Kaur had also passed away on 23rd August, 2008 leaving her husband Shri Balbir Singh, son Shri Kulwant Singh and daughter Mrs. Jeene Singh as her heirs; viii) that the said Shri Balbir Singh, Shri Kulwant Singh and Mrs. Jeene Singh have given

Certificates of No Objection for grant of Letters of Administration in respect of estate of Shri Pradeep Singh as Exhibit PW-1/4 to Exhibit PW-1/6. The petitioner produced the originals of Exhibit PW-1/2 and Exhibit PW-1/3 before the Joint Registrar which were returned after exhibit marks had been put on the copies thereof. The petitioner closed his evidence.

4. The counsel for the petitioner has been heard.

5. Though the estate of the deceased with respect where to Letters of Administration are sought is situated at Patiala outside the jurisdiction of this Court but Section 270 of The Indian Succession Act, 1925 allows Letters of Administration to be granted by the Court if at the time of his decease, the deceased had a fixed place of abode within the jurisdiction of that Court. Further, though the petitioner in his affidavit by way of evidence has not expressly stated that the deceased at the time of his decease had a fixed place of abode within the jurisdiction of this Court but has deposed that the deceased was a resident of M-71, Greater Kailash 1 (Market), New Delhi. The Death Certificate of the deceased also shows the deceased to have died within the jurisdiction of this Court. Not only so, the copy of the No Dues Certificate (Exhibit PW-1/2) was also forwarded by the Punjab Urban Planning and Development Authority, Patiala to the deceased at the said address of Delhi. From the said evidence I am satisfied that the deceased Shri Pradeep Singh at the time of his demise had a fixed place of abode within the jurisdiction of this Court. Thus, notwithstanding the estate qua which Letters of Administration is sought being situated outside the jurisdiction of this Court, this Court is competent to grant Letters of Administration. Moreover the widow as well as the sons of the deceased including the petitioner are stated to be residents of Delhi and it would be certainly more convenient to them to seek Letters of Administration from the Courts at Delhi instead of from the Courts at Patiala. The legislature having vested the jurisdiction to grant Letters of Administration in the Courts within whose jurisdiction the deceased had a fixed place of abode as well as Courts within whose jurisdiction any property of the deceased is situated, the principle of forum conveniens will apply.

6. Exhibit PW-1/2 and Exhibit PW-1/3, besides the testimony of the petitioner also establish that the deceased was the owner of the property qua which the Letters of Administration is sought.

7. The Sub Divisional Magistrate, Patiala has in response to the notices issued by this Court to the Chief Revenue Controlling Authority, Patiala stated that the total area of the flat is 50.15 sq. yds., covered area is 247.50 feet; that the allotment value of the flat was `1,19,800/- and the present market value of the flat is `3 lacs.

8. Though the order sheet records that the notices of this petition sent to the other legal heirs as aforesaid of the deceased had been served and none had appeared on their behalf but since the petitioner in his evidence has proved only the No Objection Certificates of the heirs of the mother of the deceased who died during the pendency of the present petition and no No Objection Certificates of the mother and brother of the petitioner had been filed, it is enquired from the counsel for the petitioner whether there are any disputes inter se the petitioner and his mother and brother. The counsel replies in the negative. He states that the petitioner is in a position to file affidavits by way of No Objection of his mother and brother also.

9. In the aforesaid facts, I am satisfied that the petitioner, being one of the legal heirs of the deceased, is a fit person for the grant of Letters of Administration to the estate aforesaid of the deceased. Accordingly, this petition is allowed. Letters of Administration as sought, be issued to the petitioner, on the petitioner complying with the formalities i.e. paying the requisite fee and furnishing the bonds. The petitioner, in addition is also required to file the affidavits by way of No Objection of his brother and mother. It is clarified that the Letters of Administration be not issued till the said affidavits by way of No Objection are filed.

10. The petition is allowed on aforesaid terms. No costs. RAJIV SAHAI ENDLAW,
J NOVEMBER 07 2012 pp ..

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