

Sambhav Gupta Vs. State and ors

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Court : Delhi

Decided On : Jan-23-2013

Judge : Manmohan

Appellant : Sambhav Gupta

Respondent : State and ors

Advocate for Def. : Ms. Richa Kaushal, Mr. Dhanesh Relan

Advocate for Pet/Ap. : Ms. Purnima Maheshwari

Judgement :

29 \$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + TEST.CAS. 22/2012
SAMBHAV GUPTA Petitioner Through: Ms. Purnima Maheshwari, Advocate.
versus STATE & ORS Respondents Through: Ms. Richa Kaushal, Advocate
for Mr. Dhanesh Relan, Advocate for State. Date of Decision:

23. d January, 2013. % CORAM: HON'BLE MR. JUSTICE MANMOHAN
JUDGMENT MANMOHAN, J (Oral):

1. Present petition has been filed by the petitioner under Section 276 of the Indian Succession Act, 1925 for grant of letters of administration of a registered Will executed on 23rd March, 2010 by late Mr. Satish Kumar, son of late Mr. Hari Ram Gupta, resident of 480, Block-13, Lodhi Colony, New Delhi-110003.

2. It has been averred in the petition that deceased testator Mr. Satish Kumar, died on 19th January, 2011. The deceased had executed a registered Will and Testament dated 23rd March, 2010 which was witnessed by Mr. Paramjeet Singh and Mr. S.N. Gupta.

3. The Will of the deceased was registered with the Sub-Registrar V Office, New Delhi vide Registration No. 1909 in Addl. Book No.3, Volume No.1805 pages No. 3 to 4 on 25th March, 2010.

4. The deceased Mr. Satish Kumar was the absolute and exclusive owner of a self acquired property namely, Flat No.40, Pocket VI, First Floor, Kendriya Vihar, Sector-82, NOIDA, District Gautam Budh Nagar, Uttar Pradesh.

5. At the time of his death, the deceased Mr. Satish Kumar was survived by seven legal heirs, who are petitioners mother and respondents No.3 to 8 in the present petition. Since the deceased-Testator was a bachelor, he was survived by Class II heirs as per Hindu Succession Act, 1956 that means, brothers and sisters.

6. Under the aforesaid registered Will, the deceased Mr. Satish Kumar has bequeathed the property, i.e., Flat No.40, Pocket VI, First Floor, Kendriya Vihar, Sector-82, NOIDA, District Gautam Budh Nagar, Uttar Pradesh to the petitioner, who is his nephew, namely, Mr. Sambhav Gupta.

7. Notice in the present petition was issued on 17 th April, 2012. Citation has been published in Delhi edition of The Statesman dated 18th May, 2012. No objections were received to the Will after publication of the citation.

8. Respondents No.3 to 8 have filed their No objections affidavits and the same have been marked as Ex.PW1/4 to Ex.PW1/9. Learned counsel for State has no objection to the present petition being allowed.

9. The stand of the respondent No.2 who is the Society in which the said property lies is given in the reply to the notice Ex.PW1/11 wherein it is stated you are therefore requested to advise your clients appropriately in this regard and apply for Probate of Will from competent Court of law. Since none has appeared for respondent No.2, the said society was proceeded ex parte vide order dated 30th

October, 2012. In any event, this Court is of the opinion that in Delhi in view of Section 57 read with Section 213 of the Indian Succession Act, 1925, before filing any claim based on a Will, the same is not required to be probated.

10. The Chief Revenue Controlling Authority, Dadri, District Gautam Budh Nagar, Uttar Pradesh has already filed a valuation report.

11. The mother of the petitioner has filed her affidavit by way of evidence. The said affidavit has been marked as Ex.PW1/A. It is pertinent to mention that petitioner is a minor. In the said affidavit, it has been stated that deceased Mr. Satish Kumar died on 19th January, 2011. The Death Certificate of late Mr. Satish Kumar has been marked as Ex.PW1/1.

12. Mr. Paramjeet Singh, one of the attesting witnesses has filed his affidavit by way of evidence. In the said affidavit marked as Ex.PW2/A, he has deposed that deceased late Mr. Satish Kumar was personally known to him during his lifetime and that deceased late Mr. Satish Kumar was in sound disposing mind at the time of signing of the Will. It has further been deposed by him that the testator had signed the Will in his presence and that he identify the signatures of the deceased.

13. The registered Will executed by the testator has been marked as Ex.PW2/1.

14. The other attesting witness Mr. S.N. Gupta has also filed an affidavit by way of evidence deposing that deceased late Mr. Satish Kumar was known to him during his lifetime and further that deceased late Mr. Satish Kumar was in sound disposing mind at the time of signing of the Will. It has further been deposed by him that the testator had signed the Will in his presence and he identifies the signatures of the deceased and that of Mr.Paramjeet Singh.

15. In view of the above, this Court is satisfied that the petitioner has succeeded in proving that the deceased Mr. Satish Kumar had executed the registered Will dated 23rd March, 2010 Ex. PW2/1 and the said Will was his last Will and testament 16. Consequently, there appears to be no impediment in granting the letters of administration in respect of the Will dated 23 rd March, 2010 executed by late Mr. Satish Kumar in favour of the petitioner.

17. Accordingly, present petition is allowed. The letters of administration with a copy of the Will dated 23rd March, 2010 annexed thereto is granted in favour of the petitioner, subject to his furnishing the requisite court fee in terms of the valuation report and submitting an administration bond with one surety in accordance with law.

18. With the aforesaid observations, the petition is disposed of. MANMOHAN, J
JANUARY 23 2013 js

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