$~49

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 17.09.2026***

\# **CNR No. DLHC010942672025**

\+ **TEST.CAS. 107/2025**

PURNIMA SONTI .....Petitioner

Through: Mr. Nishant Das, Ms. Jyoti Dahiya, Ms. Aatrayi Das, Ms. Sakshi Mand, Ms. Jyoti Jha and Mr. Aditya Rana, Advs.

versus

STATE OF NCT OF DELHI AND ORS .....Respondents

Through: Mr. B. K. Singh, Adv. for R-3 and 4. Mr. B.K. Singh and Mr. Kapil, Advs. for Canara Bank (through v/c).

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petition has been filed under Section 278 read with Section 217 of the Indian Succession Act, 1925 (*"the Act"*), seeking grant of Letters of Administration in respect of the estate of Late Smt. Bani Sen Gupta (*"the deceased/testatrix"*), on the basis of her Will dated 26.08.1998 (*"the Will"*). The petitioner is one of the beneficiaries under the said Will and has accordingly sought appropriate directions in respect of the assets forming part of the estate of the deceased.

2. The deceased/testatrix was the mother of the petitioner and respondent no. 2. The Will records the manner in which the assets of the deceased are to devolve upon the petitioner and the respondent no.2. The relevant assets forming part of the estate have been set out in Schedule A to the petition, which records as under:

IMMOVABLE PROPERTIES

S. No.	Description of property bequeathed	Beneficiary	Valuation
1.	DDA MIG Flat No. 17-C on Second Floor, at Sheikh Sarai, New Delhi.	Petitioner	Approx. Rs.2,10,00,000 /- (Rupees Two Crores Ten Lakhs Only)
2.	Flat No. 196-B, First Floor, Pocket-2, Group III, Jasola, New Delhi.	Respondent No. 2	Disposed by Respondent No.2

MOVABLE PROPERTIES

S. No.	Description of property bequeathed	Beneficiary	Valuation
1.	Two bank lockers bearing Nos. 682 and 333, respectively, at the Punjab National Bank, Green Park, New Delhi, which contained the Testatrix's gold ornaments.	Respondent No. 2	Cannot be determined
2.	Savings Bank Account bearing A/c No. 21789 with Canara Bank, Hauz Khas Branch.	Respondent No. 2	Cannot be determined
3.	Savings Bank Account bearing A/c No. 550230 with Syndicate Bank, R.K. Puram Branch.	Respondent No. 2	Cannot be determined

3. For disposal of the present petition, certain essential facts may be noticed.

4. The deceased/testatrix executed the aforesaid Will during her lifetime, which provides for two immovable properties, i.e., DDA MIG Flat No. 17-C on Second Floor at Sheikh Sarai, New Delhi (*"Sheikh Sarai Flat"*) and Flat No. 196-B, First Floor, Pocket- 2, Group III, Jasola, New Delhi (*"Jasola Flat"*). In terms of the Will, the Sheikh Sarai Flat shall exclusively devolve upon the petitioner, whereas the Jasola flat shall exclusively devolve upon the respondent no.2. Further, the Will provides for the movable properties (i.e. contents of locker of Punjab National Bank; monies lying in the Savings Bank Accounts in Canara Bank and Syndicate Bank) to exclusively devolve upon the respondent no.2.

5. It is the case of the petitioner that, during the lifetime of the deceased, the respondent no.2 had already dealt with/sold the Jasola Flat, which was intended for his benefit, and had received the sale proceeds thereof. The remaining assets which are required to be dealt with under the Will are the Sheikh Sarai Flat bequeathed to the petitioner, along with the contents of the locker and amounts lying in the two bank accounts which, under the Will, are to devolve upon the respondent no.2.

6. Insofar as the aforesaid two savings bank accounts are concerned, the amounts lying therein have been verified by the concerned banks. Affidavits have been placed on record from the respective bankers, disclosing amounts of Rs. 92,126.08/- and Rs. 5,00,748.22/- lying in the said accounts. The said amounts are to be dealt with in terms of the testamentary disposition contained in the Will.

7. It is, in these circumstances that the petitioner seeks grant of Letters of Administration, *inter alia*, so that the necessary formalities in respect of the estate may be completed and the amounts lying in the aforesaid bank

accounts may be released to the respondent no.2, in terms of the Will.

8. The execution and attestation of the Will has been supported by the affidavit of one of the attesting witnesses, who has deposed in support of the due execution of the Will. In the said affidavit, the witness has identified the signatures of the deceased/testator as well as his own signatures on the Will and has deposed regarding the manner in which the Will was executed and attested. The other attesting witness has since expired. In these circumstances, the testimony of the surviving attesting witness is sufficient to establish the due execution and attestation of the Will.

9. In ***Subhash Nayyar v. Registrar, University of Delhi***, 2013 SCC OnLine Del 250, a Division Bench of this Court, *inter alia*, observed as under:

> *"**12.** The settled position of law is that a Will is mandatorily required to be attested by two witnesses in terms of Section 63(c) of the Indian Succession Act, 1925. The requirement of Section 68 of the Evidence Act has also to be complied with for proof of the Will. <u>Section 68 of the Evidence Act lays down the mode of proof; it envisages that it is not necessary to call more than one attesting witness to prove the due execution of the Will.</u> When the genuineness of a Will is in question apart from the execution and attestation of the Will, it is also the duty of the propounder of the Will to dispel all suspicious circumstances."*

10. The respondent no. 2, who is also a beneficiary under the Will has given his No Objection Certificate to the grant of Letters of Administration in favour of the petitioner in respect of the Sheikh Sarai Flat. There is, therefore, no contest between the beneficiaries with regard to the manner in which the estate is to be dealt with in terms of the Will. The said No Objection Certificate reads as under:

<u>TO WHOMSOEVER IT MAY CONCERN</u>

This is to state that I, Sanjay Sen Gupta S/o Lt. Sh. P.P. Sen Gupta am selling house no. 196-B 1st Floor, Pkt.-12, Jasola, New Delhi, with the permission of my mother, Smt. Bani Sen Gupta W/o Lt. Sh. P.P. Sen Gupta; She is giving me the sale proceeds of this flat as my portion / share in the property held by her. Hence I shall have no claim ever on the property No. 17C, MIG, Sheikh Sarai, Ph-I, New Delhi-17, which shall go to her daughter Purnima Sen Gupta.

11. At this stage, the learned counsel for the petitioner submits that upon grant of Letters of Administration, the petitioner shall ensure due compliance with all necessary formalities and shall facilitate release of the amounts lying in the aforesaid two bank accounts to the respondent no. 2, in accordance with the terms of the Will. It is submitted that the petitioner shall also file an affidavit of compliance in this regard.

12. The respondent no.2, who is present in person, submits that he has no objection to the same.

13. From the material placed on record, it is evident that the deceased/testatrix executed the Will in question and that the same has been duly proved through the evidence of the attesting witness. The testamentary disposition contained in the Will is also consistent with the position taken by the beneficiaries before this Court. In particular, the respondent no.2, in whose favour the amounts lying in the two bank accounts have been bequeathed, has not raised any objection.

14. In the aforesaid conspectus, this Court is satisfied that there is no legal impediment to grant of Letters of Administration in respect of the estate of

Late Smt. Bani Sen Gupta in terms of the Will dated 26.08.1998.

15. Accordingly, Letters of Administration in respect of the Will dated 26.08.1998 executed by Late Smt. Bani Sen Gupta are granted in favour of the petitioner, subject to payment of the requisite court fee.

16. *Vide* Order dated 25.03.2026, passed by a Coordinate Bench of this Court in ***Varsha Charan v. State & Ors***., it was observed as under:

> *"3. Likewise, in **Arvind Nanda vs. State** (2020:DHC:1457) the Court had considered the decision of ld. Divisional Bench of this Court in **Rajesh Kumar Sharma and Ors. vs. Estate of late Raj Pal Sharma & Ors.**, [W.P.(C) 9108/2011, decided on 02.01.2012] where it was held that the imposition of a condition for furnishing surety is in the discretion of the Court and the same is not mandatory. Para 10 of **Arvind Nanda** (supra) reads as under:*
>
> > *"10. The settled case law, therefore, clearly lays down the following principles:- (1) The imposition of a condition for furnishing an indemnity/security is at the discretion of the Court. (2) Whenever the Court is of the opinion that a condition is required to be imposed due to any debts and the fact that there is a possibility of other claimants raising claims, the condition may be imposed. (3) In every case involving the grant of a succession certificate, a mechanical approach of imposing a condition for furnishing the surety/security and insisting on the indemnity bond is not required. (4) When an exemption from filing any surety is sought, the Court has to consider the entire conspectus and exercise its discretion depending on the facts of each case, in accordance with law. (5) As held by the ld. Division Bench of this Court in Rajesh Kumar Sharma (supra), the imposition of a condition is not mandatory."*
>
> *4. In the present case, the petitioner seeks a Letter of Administration to the estate of her deceased husband in the absence of a Will. This Court notes that there is no reason why the exposition of law in the aforesaid cases, which dispenses with the requirement of furnishing an administration bond in the case of a sole beneficiary under a Will, ought not to be extended to an uncontested case seeking Letter of Administration in case of intestate succession. The object of the law of succession, whether testamentary or intestate, is to enable the Court to accord its seal of approval to the succession of the estate of the deceased. In this regard reference may had to the decision of a coordinate bench of this Court in **Richa Pardeshi vs. State**, 2012 SCC OnLine Del 2978,*

wherein it was observed as under:

> *"13. Learned counsel for the petitioner submits, and I think rightly so, that there is no reason why the enunciation of the law relating to aforesaid case dispensing with furnishing of administration/surety bond in the case of a sole beneficiary under a Will should not be made applicable to the case of a sole beneficiary upon whom the estate of the deceased devolves by intestate succession. The object of the law of Succession, be it testamentary or intestate in nature, is to enable the Court, to lend its seal of approval to the succession of the estate of the deceased. It is trite that the judgment given in the exercise of both testamentary and intestate succession is a judgment "in rem".*
>
> *14. Indubitably, a greater degree of care is required in the case of intestate succession while appointing an administrator to take care of the estate of the deceased, but in all other respects the exercise of testamentary and intestate succession is predicated on the duty cast upon the Court to ensure that the estate of the deceased devolves in a proper manner upon the heirs of the deceased and is not frittered away. It is with this intentment that Section 291 of the Act requires furnishing of an administration bond both in the case of intestate succession and testamentary succession. As a matter of fact, the opening words of said Section are significant, which state "Every person to whom any grant of letters of administration, other than a grant under Section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct."*
>
> *15. In view of the aforesaid, it is crystal clear that to hold that Section 291 envisages the furnishing of an administration bond by a sole beneficiary or a sole legatee would lead to absurd consequences, for, the said sole beneficiary/sole legatee would then he standing surety for the estate of the deceased, which has exclusively devolved upon him, and it would be paradoxical to hold that a person can stand surety for himself.*

(emphasis supplied)

5. <u>Having regard to the fact that the petition remained uncontested and the respondent nos. 2 and 3 have also given their no objection, this Court is of the view that the present application deserves to be allowed in view of the law exposited in the decisions of this Court noted hereinabove. Ordered accordingly.</u>

17. Therefore, since the petition remains uncontested by the respondent

no.2, the requirement of furnishing an administrative bond and surety bond is dispensed with.

18. The concerned banks i.e. respondent nos. 3 and 4, are directed to release the amounts lying in the respective bank accounts forming part of the estate of the deceased, being Rs. 92,126.08/- and Rs. 5,00,748.22/-, respectively, to Shri Sanjay Sen Gupta/ respondent no.2 (who is a beneficiary under the Will and entitled to receive the said amount/s in terms thereof), subject to completion of the banks' requisite formalities.

19. The petition stands disposed of in the above terms.

SACHIN DATTA, J

SEPTEMBER 17, 2026/*ka*