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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 11<sup>th</sup> February, 2026

+ TEST.CAS. 65/2018 & I.A. 4344/2025

JUHI MISHRA

.....Petitioner

Through: Ms. Amisha Ray, Mr. Rohan Rai,  
Advocates (M:7708706788)

versus

STATE OF NCT & ORS.

....Respondents

Through: Mr. Abhishek Awasthi, Advocate for  
R-2 to 8

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J. (ORAL)**

**I.A. 4344/2025**

1. The present application has been filed with the following prayers:

*“a. Direct the Registry to do correction in the letter dated 28.01.2025  
w.r.t the court fee amount and the correct one is Rs. 5,32,553.28/-;*

*b. To accept the surety property valued at Rs. 80,81,280/- along with  
Administrative Bond and court fees annexed with the Application and  
issue letter of probate/administration;*

*c. Exempt the Applicant from filing surety to the extent of her share in  
the suit property, which is amounting to Rs.90,63,832/- and;*

*d. Pass such other order(s) as this Hon'ble Court may deem fit and  
proper in the interest of justice.”*

2. Learned counsel for the petitioner submits that as far as prayers (a)



and (b) are concerned, the same already stand satisfied and the corrected Court Fees after calculation has already been deposited before this Court, as recorded in the order dated 20<sup>th</sup> January, 2026. The order dated 20<sup>th</sup> January, 2026 reads as under:

**I.A. 4344/2025 (For correction in Court fees calculation exemption from furnishing surety amount of the administrator/applicant to the extent of her share and to take on record the Court fees, Administrative Bond and surety)**

**As per the report of the registry, Court fee amount to Rs. 5,32,553/- is correct as per the valuations received on record.**

**Learned counsel for petitioner has handed over the physical copy of the E-Court Fee across the board. The same is taken on record.**

*Qua the relief “exemption from furnishing surety amount of the administrator/applicant to the extent of her share” which is not within the jurisdiction of this Court, let the matter be placed before the Hon’ble Court on 10.02.2026.”*

*(Emphasis Supplied)*

3. Thus, the present application has been listed today, with regard to the prayer to exempt the petitioner herein from filing surety to the extent of her share in the suit property, amounting to Rs. 90,63,832/-.

4. Learned counsel for the petitioner submits that the petitioner is executor of the Will dated 06<sup>th</sup> April, 2012, and is also a beneficiary of the said Will, wherein, *Flat No. 193, Vishwas Apartments, Plot No. 6A, Sector 23, Dwarka, New Delhi – 110075*, as well as *Flat No. 202, Shanti Niwas Apartment, Dhirachak, Anisabad, Patna – 800002*, have been bequeathed in favour of the petitioner.

5. Learned counsel for the petitioner draws the attention of this Court to the order dated 03<sup>rd</sup> May, 2024 passed by this Court, whereby, the Letter of Administration was granted in favour of the petitioner. She, in particular, draws the attention of this Court to paragraph 17 of the said order, which



reads as under:

“xxx xxx xxx

*17. The Petition is not contested by the Respondents, the other legal heirs of the deceased. Respondent No. 2 to 8 are beneficiaries under the Will and have given their No-objection/consent by way of Affidavits. Also, no third person has filed any objection pursuant to the citation in the Newspapers.*

xxx xxx xxx”

6. By referring to the aforesaid order dated 03<sup>rd</sup> May, 2024, learned counsel for the petitioner submits that the present petition has not been contested by the respondent nos. 2 to 8, who are the other legal heirs of the deceased and the beneficiaries under the Will dated 06<sup>th</sup> April, 2012.

7. Attention of this Court has also been drawn to the order dated 26<sup>th</sup> May, 2025, wherein, the statement of the learned counsel for respondent nos. 2 to 8 has been recorded to the effect that he has no objection to the grant of exemption to the petitioner from furnishing surety to the extent of her share in the properties. The order dated 26<sup>th</sup> May, 2025 reads as under:

**I.A. 4344/2025 (For correction in Court fees calculation, exemption from furnishing surety amount of the administrator/ applicant to the extent of her share and to take on record the Court fees, Administrative Bond and surety)**

**Learned counsel for R-2 to 8 submits that he has no objection to the grant of exemption from furnishing surety.**

As per the office report, the correct fee to be paid is Rs. 5,32,553.28.

Vide office noting dated 18.02.2025, Court fee along with administration bond and surety bond has been filed.

Notice of the application be issued to the R-1 to be served by all permissible modes on filing of PF within four weeks.

Re-notify on 29.08.2025.”

*(Emphasis Supplied)*



8. Mr. Abhishek Awasthi, learned counsel for respondent nos. 2 to 8 appearing before this Court, confirms and reiterates that respondent nos. 2 to 8 have no objection to the grant of exemption to the petitioner from furnishing the surety *qua* her share in the suit properties.

9. Having heard learned counsels for the parties, this Court at the outset notes the averments made by the petitioner in the present application, relevant portions of which, read as under:

“xxx xxx xxx

13. It is pertinent to mention that the Applicant is not seeking a complete exemption from filing surety, but rather a partial exemption from furnishing surety amount to the extent of her share in the said property, which is valued at Rs. 90,63,832/-. It is submitted that the Applicant is furnishing the Administrative Bond and Surety along with the Property bearing no. C-501, Jagran Apartments, Plot No. 17, Sector-22, Dwarka, New Delhi-110077 as surety which is valued at Rs. 80,81,280/- as per the valuation report by SDM vide order dated 18.12.2024 which suffices the surety.

xxx xxx xxx”

*(Emphasis Supplied)*

10. Perusal of the aforesaid shows that the petitioner has already furnished a surety in the form of the property bearing No. C-501, Jagran Apartments, Plot No. 17, Sector 22, Dwarka, New Delhi-110077, which is valued at Rs. 80,81,280/-.

11. This Court also takes note of the surety bond, furnished on behalf of the petitioner with respect to the aforesaid property, which reads as under:



### SURETY BOND

This Bond of Surety is executed at New Delhi on this 27 day of May 2024 by Pramod Kumar Mishra, aged about 67 years, S/O Late Shri Bagish Mishra, R/O Flat no C-501, Jagran Apartments, Plot no 17, Sector 22, Dwarka, New Delhi-110077, to stand surety for Juhi Mishra, W/O Pramod Kumar Mishra, R/O flat no. C- 501, Jagran Apartments plot no.17, Sector 22, Dwarka, New Delhi 110077 who is my wife.

That I Pramod Kumar Mishra, aged about 67 years S/O Late Shri Bagish Mishra R/O Flat no C-501, Jagran Apartments, Plot no 17, Sector 22, Dwarka, New Delhi-110077, stands surety for Juhi Mishra W/O Pramod Kumar Mishra R/O flat no. C- 501, Jagran Apartments plot no.17, Sector 22, Dwarka, New Delhi 110077 hereinafter referred as the Administrator of the estate of the deceased Late Diva Kant Thakur, under bound unto the Hon'ble Delhi High Court, New Delhi sum of Rs 2.5 Crores which is the valuation of the Estate for which Duty is payable to the court of Hon'ble Delhi High Court, New Delhi and for which payment I bind myself and my heirs and legal representatives.



Now that the condition of this Surety Bond is such that if the above said Administrator Juhi Mishra do and shall within 6 months grant a Letter of Probate of the Estate of Late Shri Diva Kant Thakur S/O Late Sh. Jokhe Lal Thakur or such further time as the court may allow, the property which has come to his hands or possession or to his knowledge in course of administration and also the debts and outstanding dues if any as payable by the estate and exhibit the same further time as the court may allow, exhibit an account of the Estate in the manner



which they have been applied appropriated or disposed off and does and shall well and truly administer the property of the deceased according to law and the rest and residue of the said property which shall be found remaining, he shall be lawfully entitled thereto.

Then and in such an event the above written Bond shall be void and of no effect otherwise the same remains in full force and virtue.

Date: 31.05.2024

**SURETY**

12. The Court also takes note of the submission made by learned counsel for the petitioner that the sum of Rs. 2.5 Crores, as mentioned in the aforesaid surety bond, includes the value of the properties in favour of the petitioner, although the said surety bond has been given only with respect to the two properties, situated in *Patna*, i.e., *Flat No. 203, Shanti Niwas Apartment, Dhirachak, Anisabad, Patna – 800002* and *Flat No. 201, Shanti Niwas Apartment, Dhirachak, Anisabad, Patna – 800002*.

13. The Valuation Report filed by the Executive Magistrate (Dwarka) is taken note of, which values the aforesaid property at Rs. 80,81,280/-, and is reproduced as under:



D1 26

## BEFORE THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI

In the matter of Test Cas No. 65/2018  
(Date of Hearing 18.12.2024)

JUHI MISHRA

..... Petitioner

VS

STATE OF NCT &amp; ORS.

..... Respondents

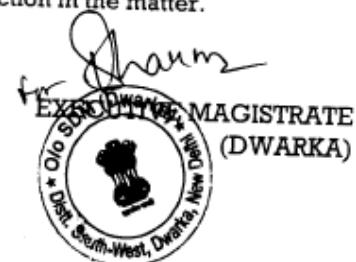
Most respectfully sheweth that:

This report is in compliance of Notice dated 06.11.2024 issued by this Hon'ble Court whereby it was directed to file valuation report in respect of Property bearing No. C-501, Jagran Apartments, Plot No. 17, Sector-22, Dwarka, New Delhi - 110077.

Pursuant to the directions, Halka Patwari was directed to visit and file a report. As per his report (copy enclosed), the said flat/property is a Group Housing Society Flat (Jagran CGHS Ltd) on 5<sup>th</sup> Floor in a building/tower having total 7 floors plus Parking at Ground Level/Floor. The property is in the name of Shri Pramod Kumar Mishra S/o Shri Bagish Mishra. The area of the flat is 92 Sq. Mtr and property was built-up in the year 2000. The valuation of property (as per circle rates) is as under:

S.No	Details of the property	
1	Locality	Dwarka
2	Category	Built up flats having more than 4 storeys
3	Minimum rate(per Sq. mtr) of property in question	Rs. 87,840/-
4	Area of property in question in Sq. Mtrs.	92 Sq Mtr.
5	Total Cost of property	Rs. 80,81,280/- (Rupees Eighty Lakhs Eighty One Thousand and Two Hundred & Eighty Only)

Submitted for kind perusal and further direction in the matter.



14. Thus, this Court notes that the surety is for a sum of Rs. 80,81,280/-



and that the sum of Rs. 2.5 Crores has been wrongly mentioned in the aforesaid surety bond.

15. Accordingly, it is noted that the petitioner has already given surety with respect to the aforesaid two flats, i.e., *Flat No. 201* and *Flat No. 203*, located in *Patna* and has sought exemption only with respect to her share, i.e., properties bequeathed to the petitioner, being *Flat No. 193, Vishwas Apartments, Plot No. 6A, Sector 23, Dwarka, New Delhi – 110075* and *Flat No. 202, Shanti Niwas Apartment, Dhirachak, Anisabad, Patna – 800002*.

16. The principles with respect to the exemption from furnishing the surety have been laid down by this Court in the case of ***Arvind Nanda Versus State, 2020 SCC OnLine Del 2922***, relevant portions of which, are reproduced as under:

“xxx xxx xxx

***7. In Rajesh Kumar Sharma v. Estate of Late Raj Pal Sharma [W.P.(C) 9108/2011, decided on 02.01.2012] a ld. Division Bench of this Court, while upholding the Constitutional validity of Section 375 of the ISA, has clearly observed that the requirement of furnishing of a security can be exempted depending on the facts of each case. The observations of the ld. Division Bench are as under:—***

**“10. Not only so, a bare perusal of Section 375 (supra) further shows that the furnishing of the security itself is in the discretion of the Court. It is always open to the grantee to seek exemption from furnishing of such security.** We may record that this Court in Sudershan K. Chopra (Smt.) v. State 2006 IV AD (Delhi) 735 following the judgment of the Calcutta High Court in Mamohini Dassi v. Taramoni 1929 SCC OnLine Cal 393 : AIR 1929 Cal 733 and finding the grantee to be the sole legatee beneficiary under the Will of all the properties bequeathed thereunder, directed furnishing of security bond of a nominal amount only. Similarly in Asha Sikka v. State 1996 3 AD (Delhi) 967 also this Court granted Letters of Administration without the grantee being required to execute any security. A similar view is found to have been taken by most of the other High Courts also.



11. We are thus constrained to observe that the challenge to the vires of Section 375 of the Indian Succession Act, 1925 predicated on the same being mandatory is misconceived and in ignorance of law.”

8. A similar view has been taken by a ld. Single Judge of this Court in *Maninder Singh v. State* [Test Cas. No. 106/2014, decided on 22.04.2015] wherein a series of cases granting such an exemption have been referred to:

**“8. There are a stream of cases, where having regard to the fact that the petitioners in testamentary cases where probate/letters of administration were sought in respect of the estate of the deceased, had been exempted from furnishing Surety Bond/Administration Bond on the ground that the will was in favour of the natural heirs and there was no contest to the request for grant of letters of administration/Probate. It was observed that where the petitioners/applicants were natural heirs/sole beneficiary of the deceased, any order directing the said petitioner(s) to stand as an administrator/surety of the estate of the deceased would amount to their/his standing surety for themselves/himself.**

Some of the decisions on the aforesaid lines are as follows:—

(i) *Ramachandra Ramratan v. Ramgopal Onnkarji* reported as AIR 1957 MP 31

(ii) *Shambu P. Jaisinghani v. Kanayalal P. Jaisinghani* reported as (1995) 60 DLT 1

(iii) *Shakuntala Taxali v. State (Delhi Administration)* reported as (1996) 61 DLT 502

(iv) *Sanjay Suri v. State* reported as (2003) 71 DRJ 446

(v) *Sudershan K. Chopra v. State* reported as (2006) 87 DRJ 257

(vi) *Ira Kapoor v. State* reported as 2011 SCC OnLine Del 2840 . . . . .

xxx xxx xxx

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 1<sup>st</sup> Division Bench of this Court in *Rajesh Kumar Sharma (supra)*, the imposition of a condition is not mandatory.

xxx xxx xxx”

(Emphasis Supplied)

17. Similarly, in the case of *Rajesh Sinha and Ors. Versus State, 2015 SCC OnLine Del 9264*, this Court held that the principle of exempting natural heirs from furnishing surety bonds also finds resonance in cases where there are more than one beneficiary of the estate of the deceased, in the following manner:

“xxx xxx xxx

9. On a conspectus of the above legal position on the requirement of furnishing a surety and Administration Bond, it may be noted that in a majority of decisions, it has been held that where a sole beneficiary/legatee is involved, the requirement of offering an indemnity bond/surety bond is dispensable for the simple reason that it would be an exercise in futility to call upon a sole beneficiary/legatee under a will that has been duly proved, to furnish an Administration Bond/Surety Bond when the estate of the deceased has been bequeathed in favour of the very same person. Even when it comes to cases where petitions are filed for grant of letters of administration under a will, on account of the bar imposed under Section 222 of the Act that stipulates that probate can be granted only to an executor appointed by the will, the courts have ordinarily adopted a liberal approach and have taken a pragmatic view by holding that judgments pronounced in exercise of testamentary and intestate succession are in the nature of



proceedings in rem and the statutory provisions and rules are framed to realize the ultimate objective of succession.

10. Therefore, wherever probate has been sought of the bequest in favour of the natural heirs, and the petitioners have sought exemption from furnishing Administration Bonds/Surety Bonds they have ordinarily been exempted, reason being that a person, who is the sole beneficiary under a will, is not required to undertake duties of an administrator who in the said capacity, is expected to maintain true accounts and a complete inventory of the estate of the deceased and administer the said estate. The aforesaid line of thought has been expressed in the cases of Sanjay Suri (supra), Sudershan K. Chopra (supra) and Richa Pardeshi (supra).

11. The same view finds resonance in cases where there are more than one beneficiary/legatee of the estate of the deceased. While reiterating the principle that the objective of testamentary and intestate jurisdiction is to enable the Court to accord legitimacy and authenticity by giving its seal of approval to succession of the estate of the deceased, the courts have observed that the ultimate objective is of grant of succession and to realize the said objective, the statutory provisions and rules ought to be interpreted in a manner that are in furtherance to realizing the intention of the deceased, instead of obstructing it by getting hypertechnical. At the same time, the courts have been cautious in cases of intestate succession for the reason that a greater degree of care is required to be taken when an administrator is to be appointed with a surety and security taken for due administration of the estate of the deceased.

12. In the present case, the petitioners are the natural heirs of the deceased, late Shri Tarini Prasad Sinha. Petitioners No. 2 and 3 have issued letters of authorization in favour of the petitioner No. 1 authorizing him to pursue the case on their behalf and they have no objection to the letters of administration being granted in favour of the petitioner No. 1. The citations that have been issued in the press have not elicited any objections from any quarter. Being satisfied with the evidence produced by the petitioners, letters of administration were granted in favour of the petitioner No. 1, vide order dated 18.9.2013. After the grant of the letters of administration, petitioner No. 1 has already furnished the Administration Bond and deposited the court fee stamps and now he seeks exemption from filing the surety bond.

13. In view of the fact that letters of administration have been granted to the petitioner No. 1 in the absence of any contest, this Court is of the opinion that the condition of filing a Security Bond for the entire value of the estate of the deceased, assessed at Rs. 6,37,60,383/-



*would be extremely onerous on him. It is therefore deemed appropriate to allow the present application and permit the petitioner No. 1 to furnish a Surety Bond for a sum of Rs. 10 lacs (rupees ten lacs) as this would serve the purpose without unnecessarily burdening him. Needful shall be done within two weeks.*

*xxx xxx xxx”*

*(Emphasis Supplied)*

18. Considering the aforesaid discussion, this Court notes that the petitioner herein is a natural heir of the deceased, i.e., Late Shri Diva Kant Thakur, as she is the eldest daughter of the deceased. Further, the present petition has been uncontested by the other respondents, i.e., respondent nos. 2 to 8, being the other legal heirs of the deceased and beneficiaries under the Will in question.

19. By way of the present application, the petitioner only seeks exemption from filing surety *qua* her share in the suit properties, that is, properties *qua* which the petitioner is the sole beneficiary. Thus, in view of the limited relief sought in the present application, and considering that the other respondents, i.e., respondent nos. 2 to 8 have given their no objection with respect to grant of exemption to the petitioner from furnishing the surety for her share in the suit properties, this Court finds no impediment in passing orders in favour of the petitioner.

20. This Court notes that surety with respect to the other properties situated in *Patna* already stands filed by the petitioner before this Court.

21. Accordingly, considering the submissions made before this Court, there being no objection from any quarter, the petitioner is exempted from furnishing surety to the extent of her share in the suit properties, as noted above.



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22. The present application is disposed of in the aforesaid terms.

**MINI PUSHKARNA, J**

**FEBRUARY 11, 2026/au**