



2025:DHC:1421



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 31/2021 & I.A. 24702/2023**

Date of Decision:**18.02.2025**

IN THE MATTER OF:

SUPRIYA SINGH AND ANR.

....Petitioners

Through: Mr. Ashok Agarwal and Mr. Balram
Singh, Advs.

versus

STATE AND ORS.

....Respondents

Through: Ms. Namita Wali, Adv. for D-2 to 12.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition has been filed under Sections 276 read with 255 of the Indian Succession Act, 1925 (*hereinafter 'the Succession Act'*) seeking a grant of probate of final Will dated 26.11.2019 (*hereinafter 'the Will'*), of late Dr. Manoranjna Sivasankar, wife of Late Chengaleth Sivasankar, aged 86 years, (*hereinafter referred to as the testator*), resident of 34/705, Adishwar Apartments, Firozeshah Road, G.P.O., New Delhi 110001.

2. The testator ascended to her heavenly abode on 27.02.2020 at New Delhi. The testator's husband predeceased her in 2016 and the couple had no



children. The testator, during her lifetime, expressed her intent to bequeath her movable and immovable properties to certain charitable organizations, her surviving relatives, and her caregiver. In furtherance of this intent, she voluntarily and in a sound state of mind executed her last Will and testament on 26.11.2019 in the presence of witnesses. The said Will was duly registered during her lifetime on 29.11.2019 under Registration No. 171 in Book No. 3, Volume No. 567.

3. Petitioner No. 1, being the younger sister of the testator, is one of the duly appointed executors of the Will and is a resident of Australia. Petitioner No. 2 is Mr. Nirmal Kumar Jain, a Chartered Accountant from the firm Nirmal Jain & Co., who has been appointed as a co-executor of the Will alongside petitioner No. 1, thereby ensuring the effective administration and execution of the estate of the testator.

4. Respondent No. 1 is the State, and respondent Nos. 2 to 12 are the beneficiaries under the Will. According to Section 15(1)(b) read with Section 16 and the Schedule of the Hindu Succession Act, 1956, in the absence of direct descendants, respondents No. 4 to 7 are the sole surviving legal heirs of the testator, being the children of the deceased siblings of the testator's late husband.

5. Further, respondent Nos. 8 and 12 are the spouses of children of the deceased siblings of the testator's late husband, while respondent Nos. 9 and 10 are the grandchildren of the deceased siblings of the testator's late husband. Additionally, respondent Nos. 2 and 3 are the nephew and niece of the testator, being the children of her late elder sister, and respondent No. 11 is the caregiver and long-time retainer of the deceased testator.



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6. Relevant facts manifest in the petition are as follows:
- i. The estate of the testator encompasses immovable properties, namely the residential apartments situated in Bangalore and New Delhi, and movable assets, which include bank accounts, jewellery, paintings, sculptures, carpets, objects of art, and other articles acquired by the testator during her lifetime.
 - ii. According to the Will, the estate has been apportioned into three distinct categories of bequests. Firstly, from the sale proceeds of the immovable properties, together with the balance in NRO account no. 5899660-805, specific sums have been bequeathed to thirteen beneficiaries, including petitioner No. 1. Secondly, any residue remaining after such distributions is directed to be apportioned among three types of charities as specified in the Will, with the discretion for particular grants vesting in the executors named therein. Thirdly, of the remainder of the estate, the following specific bequests have been made:
 - a. A Kerala coin necklace, bequeathed by the testator's mother-in-law to respondent No. 12.
 - b. A ruby necklace, bequeathed by the testator's mother-in-law to respondent No. 7.
 - c. The balance of the testator's jewellery, whether kept in the testator's locker or otherwise, is to be transferred to petitioner No. 1.



- d. The entire contents of both the testator's houses, including furniture, paintings, sculptures, carpets, and all other articles, to be delivered to petitioner No. 1.
- e. The sum held in the two Citibank accounts (account no. 5078966221 and account no. 5102708228), which were jointly held by the testator and petitioner No. 1, to be allotted to petitioner No. 1.
- iii. It is further stipulated in the Will that all expenses incurred in the administration of the testator's estate and in the distribution of the bequests shall constitute a first charge upon the estate. This charge includes *inter alia*, a professional fee to be paid to petitioner No. 2 for the professional services rendered in connection with the estate.
- iv. During her lifetime, the testator, for reasons of convenience or expediency, had already distributed portions of her estate. In this regard, certain movable assets were transferred to her only surviving sister, namely petitioner No. 1.
- v. Subsequent to the demise of the testator, petitioner No. 1 has taken control of two bank accounts (account no. 5078966221 and account no. 5102708228) and one safe deposit locker (locker no. 1395-E at the Delhi Safe Deposit Co., 86, Janpath, New Delhi). The said accounts and locker had been jointly held by the testator and petitioner No. 1 and were operable by "either or survivor" in accordance with the applicable bank policy.



7. It is the case of the petitioner that the testator executed the Will with a sound disposing mind and voluntarily, without any coercion.
8. Earlier the proceedings were contested by respondents. Nevertheless, they subsequently refrained from raising any objections, a fact duly noted in the order dated 22.04.2024, wherein learned counsels for respondent No. 1 and respondent Nos. 2 to 12 submitted that they do not wish to lead any evidence. The said order is reproduced herein: -

“ORDER
22.04.2024

Learned counsel for the petitioners submits that their evidence has been completed.

Learned counsels for respondent no.1 and respondents no.2 to 12 submit that they do not want to lead any evidence.

Let the matter be listed for final arguments on 09.08.2024.

Both the parties are directed to file their brief written submissions not exceeding three pages with copies of the judgments they wish to rely upon with advance copy supplied to the opposite party.”

9. Hence, the instant proceedings remain uncontested, with no objections raised against the relief prayed for.
10. It is also seen that *vide* order dated 02.08.2022, the petitioners were appointed as the Administrators *pendente lite* by this Court for having access to the Bank accounts and /or preparing the inventory of the lockers.
11. The particulars of the entire estate of the testator are given hereinunder: -

S.NO	IMMOVABLE PROPERTY
1.	Flat Number 705, Adishwar Building, 34 Firozeshah Road, New Delhi, 110001 valued at Rs. 1,80,17,0001- (<i>Rupees One Crore Eighty Lakh Seventeen Thousand only</i>)



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2.	Aspen B-03, Tata Sherwood, Bhasavanagar main road, Vibhutipura Extension, Bangalore, 560037 valued at Rs. 1,28,00,000/- (<i>Rupees One Crore Twenty Eight Lacs</i>)
	MOVABLE PROPERTY
3.	NRO A/c no. 5899660-805 in the name of the testator at the Bangalore branch of Citibank, (No.5 MG Road, Bangalore) only in the testator's name
4.	2 Citibank accounts, jointly held in the name of the testator and petitioner No.1 with the following particulars: a. A/c no. 5078966221 b. A/c no. 5102708228
3.	Account No. 8650101001387 at Canara Bank, Veerabhadreshwara High SC, Bangalore, Karnataka - 560037 (IFSC: CNRB0008650). <i>(In the name of the Testator only)</i>
	Lockers
4.	The Locker No. 1395-E with the Delhi Safe Deposit Co. 86, Janpath, New Delhi-110001 (<i>also jointly held by Testator and Petitioner No.1</i>)
5.	Testator's Locker No. 0634-D with the Delhi Safe Deposit Co. 86, Janpath, New Delhi-110001 is in the name of the testator. (<i>In the name of the Testator only</i>)
6.	Testator's locker at Canara Bank, Veerabhadreshwara High SC, Bangalore, Karnataka - 560037 (IFSE: CNRB0008650). (<i>In the name of the Testator only</i>)
	OBJECTS ACQUIRED DURING THE TESTATOR'S LIFETIME
Items	Number and description
Jewellery	1 minakari and pearl necklace 8 gold bangles 6 gold chains 7 pairs of diamond earrings



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	1 pearl necklace 3 rings (one gold, one ruby and diamond, one sapphire and diamond)
Brass items	3 Statutes of Lord Ganesh Figurines of goddesses 3 bowls 2 lamps
Silver	2 ounces fine silver (Credit Suisse) 1 small bag 1 bowl 2 prayer sets 1 coffee set 3 trays
Carpet	1 small Kashmiri silk carpet
Paintings	Some religious paintings by a cousin of a friend
Carved doors	Two South Indian carved doors

12. However, as stated hereinabove, some of the estate was already distributed or disposed of during the testator's lifetime.

13. Therefore, the schedule of movable and immovable properties of the testator for which probate is sought by way of this petition, is reproduced hereinunder: -

S.NO	IMMOVABLE PROPERTY
1.	Flat Number 705, Adishwar Building, 34 Firozeshah Road, New Delhi, 110001 valued at Rs. 1,80,17,0001- (<i>Rupees One Crore Eighty Lakh Seventeen Thousand only</i>)
2.	Aspen- B-03, Tata Sherwood, Bhasavanagar mam road, Vibhutipura Extension,



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	Bangalore, 560037Rs. 1,28,00,0001- (Rupees One Crore Twenty Eight Lacs)
	MOVABLE PROPERTY
	Bank accounts
3.	NRO A/c no. 5899660-805 in the name of the testator at the Bangalore branch of Citibank, (No.5 MG Road, Bangalore) only in the testator's name
4.	Account No. 8650101001387 at Canara Bank, Veerabhadreshwara High SC, Bangalore, Karnataka - 560037 (IPSC: CNRBOOO8650).
	Lockers without access
5.	Testator's locker at Canara Bank, Veerabhadreshwara High SC, Bangalore, Karnataka - 560037 (IFSC: CNRBOO08650).
6.	Testator's Locker No. 0634-D with the Delhi Safe Deposit Co. 86, Janpath, New Delhi-110 001 is in the name of the testator.

14. It is also noted that apart from the aforesaid, the remaining assets are already stated to be in the control and possession of the desired beneficiary i.e., petitioner No.1.

15. It is also noted that petitioners examined the following witnesses who have duly verified the signature of the testator on the will (exhibited as Ex.PW-1/A) and also her death certificate (exhibited as Ex.PW-3/A): -

- i. PW-1 Ms. Priya Vari Sen (also a witness to the will in question)
- ii. PW-2 Ms. Supriya Singh (petitioner No.1)
- iii. PW-3 Sh. Nirmal Kumar Jain (petitioner No.2)
- iv. PW-4 Ms. Nalini Narayan (also a witness to the will in question)

16. It is, thus, seen that in view of the aforesaid position, the Will dated 26.11.2019 stands proved as per the requirement of Section 63 of the



Succession Act and Section 68 of the Indian Evidence Act, 1872 (*hereinafter 'the Evidence Act'*).

17. Section 276 of the Succession Act, reads as under:-

“276. *Petition for probate.*—

(1) *Application for probate or for letters of administration, with the Will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will or, in the cases mentioned in sections 237, 238 and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—*

(a) *the time of the testator's death,*

(b) *that the writing annexed is his last Will and testament,*

(c) *that it was duly executed,*

(d) *the amount of assets which are likely to come to the petitioner's hands, and (e) when the application is for probate, that the petitioner is the executor named in the Will.*

(2) *In addition to these particulars, the petition shall further state,—(a) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and*

(b) *when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.*

(3) *Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another State, the petition shall further state the amount of such assets in each State and the District Judges within whose jurisdiction such assets are situate.”*

18. In the case of ***Ishwardeo Narain Singh v. Kamta Devi***¹, the Supreme Court delineated critical prerequisites for granting probate. *First*, the *onus probandi* rests on the petitioner to substantiate the authenticity of the Will and voluntary execution by the testator. *Second*, probate proceedings, being *in rem*, are binding upon not only the litigants but also the public at large, coupled with a presumption of validity. *Third*, a will that appears regular

¹ AIR 1954 SC 280



and is duly attested engenders a presumption of validity, which holds unless contradicted by dubious circumstances. The Courts are tasked with ensuring the genuineness of the Will and dispelling any suspicions. Although technical evidentiary rules are applicable, the paramount criterion is the assurance of the Court with respect to the document's veracity.

19. The requirements enumerated in *Ishwardeo Narain Singh* stand fulfilled in the present case as has been discussed in the foregoing paragraphs.

20. It is further imperative to observe that a sine qua non for the grant of probate is that the Will in question must constitute the ultimate testament of the testator. Pursuant to clause (b) of Section 276 of the Succession Act, the designation "last Will and testament" pertains to a document that remains extant postmortem, detailing the apportionment of immovable assets and the designation of beneficiaries.

21. On a brief scrutiny of the Will and the surrounding circumstances for its execution, there does not seem to be any other Will after the Will dated 26.11.2019. The same is, thus, found to be last Will and testament in terms of the requirement of Section 276 of the Succession Act.

22. The death certificate, as has been noted hereinabove, is also not disputed.

23. The Court, thus, finds that the said Will is a legally executed document, and on the basis thereto, the petitioner is entitled to the probate of the Will dated 26.11.2019.

24. The petitioners are directed to file the requisite Court fee with the registry and in compliance with the said requirement, let the registry issue



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the probate along with the copy of the Will which was furnished to the Court. The petitioners are further exempted from furnishing any security bond.

25. With the aforesaid directions, the instant petition stands allowed. The application(s), if any, stands disposed of.

FEBRUARY 18, 2025

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PURUSHAINDR KUMAR KAURAV, J

Click here to check corrigendum, if any