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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 30th October, 2025

+ TEST.CAS. 42/2025

VAIBHAV KAKKAR

.....Petitioner

Through: Mr. Shrey Sharma, Advocate.

versus

THE STATE OF NCT OF DELHI & ORS.Respondents

Through: Mr. Abhinav Singh and Ms. Bharti
Yadav, Advocates for GNCTD.
Ms. Sanya Sud, Advocate for R-2 to
R-4.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present petition has been filed under Sections 222 and 276 of the Indian Succession Act, 1925 (hereinafter 'Act') read with Section 300 of the Act seeking grant of probate in respect of the Will dated 4th April 2019 (hereinafter 'Will') of late Shri Rakesh Bhatia (*resident of B-3, Gangotri Enclave, Alaknanda, New Delhi-110019*), who expired on 14th February 2020 (hereinafter 'Testator') in Delhi.

2. The particulars of the estate of the Testator in respect of which the probate of the Will is sought has been filed along with the present petition.

3. It is stated that the Will is the last and final will of the Testator, which was duly executed, attested and registered with the Office of the Sub-Registrar – V on 6th April 2019 *vide* registration no. 244 in Book No.3,



Volume No. 2195 on pages 169-176.

4. The Testator is not survived by any Class I legal heir.
5. The Testator is survived by his two siblings, namely, Shri Sanjay Bhatia (brother/ respondent no.3) and Smt. Beena Bhatia (sister/ respondent no.4), together who comprise his Class II legal heirs.
6. The aforesaid Class II legal heirs of the Testator are mentally challenged and dependent for their basic day-to-day functioning. As per the reports from the Department of Psychiatry, AIIMS, the defendant no.4 has mental disability of about 70%-80% and the defendant no.3 has mental disability of about 50%.
7. Being the legally appointed guardian of the respondents no.3 and 4, the Testator created the respondent no.2 trust, namely, Beena Sanjay Welfare Trust for the welfare, well-being and benefit of the respondents no.3 and 4 including but not limited to their upkeep, care, maintenance and financial support. The aforesaid Class II legal heirs of the Testator, the respondents no.3 and 4, are the only beneficiary of the respondent no.2 trust.
8. The respondent no.2 was created in the year 2016 and has been duly registered under the Indian Trusts Act, 1999 *vide* Registration No. 594, in Book No. 4, Volume No. 4185 on page 159-177 on 26th April, 2016.
9. Originally, the following persons were the trustees of the respondent no.2:
 - a) Late Shri Rakesh Bhatia (Testator)
 - b) Mr. Vijay K Sondhi
 - c) Mr. Vaibhav Kakkar (petitioner)
10. As per the Will, the Testator appointed Mr. Vijay K Sondhi as the



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Executor of the Will and in the event of his demise, the petitioner was to be the Executor of the Will.

11. Owing to the sad demise of Mr. Vijay K Sondhi on 28th January, 2022, the petitioner became the only surviving Executor of the Will as well as the sole surviving trustee of the respondent no.2.

12. Subsequent to the demise of the Testator, who was the only surviving legal guardian of the respondents no.3 and 4, the petitioner along with Mrs. Aditi Tomar, applied for certificates for appointment as legal guardians of the respondents no.3 and 4 and the same were granted on 18th March 2025.

13. The petitioner had previously filed a petition, being TEST.CAS. 50/2024, before this Court seeking probate of the Will, wherein the Court pointed out certain defects prior to issuance of notice.

14. Accordingly, the said petition was withdrawn *vide* order dated 1st April, 2025 with liberty to file a fresh petition.

15. Notice in the present petition was issued to, and accepted on behalf of the respondent no.1, on 28th April 2025.

16. Counsel for the respondents no.2 to 4 entered appearance on 2nd July, 2025.

17. On behalf of the respondents no.2, an affidavit-cum-no-objection has been filed by Mr. Krishna Nand Thakur, the authorized legal representative of the respondent no.2, supporting the case of the petitioner. On behalf of the respondents no.3 and 4, an affidavit-cum-no-objection has been filed by Mrs. Aditi Tomar, the legal guardian appointed in respect of the respondents no.3 and 4.

18. Citations have been published by the petitioners in respect of the



present petition in 'Time of India' (English edition) and 'Nav Bharat Times' (Hindi edition). No objections have been received pursuant thereto.

19. In view of the above, the matter was listed for the petitioner's evidence. No formal issues were framed in the matter.

20. Evidence by way of affidavit dated 15th October 2025 has been filed on behalf of the petitioner (PW-1). The medical records of the respondents no.3 and 4 have been exhibited as Exhibit PW1/1. The trust deed of the respondent no.2 has been exhibited as Exhibit PW1/2. The Will has been exhibited as Exhibit PW1/3. The death certificate of the Testator has been exhibited as Exhibit PW1/4. The legal guardianship certificates granted by the Local Level Committee have been exhibited as Exhibit PW1/5.

21. Evidence by way of affidavit dated 15th October 2025 has been filed on behalf of one of the attesting witnesses Shri Rajesh Kumar Singh (PW-2). He had deposed regarding the due execution and attestation of the Will and that the Testator was of sound mind at the time of executing the Will. He had also identified the signatures of the Testator and the other attesting witness on the Will.

22. Statements of PW-1 and PW-2 have been recorded by the Joint Registrar on 29th October 2025.

23. As such, this is an uncontested case for grant of probate.

24. It is a settled legal position that if the beneficiary is the natural legal heir of the Testator, exemption can be granted from furnishing administrative-cum-surety bond. In the present case, the subject property is bequeathed in favour of the respondent no.2, the beneficiaries of which are the natural heirs of the Testator. In fact, the Testator before his death was



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also one of the trustees of the respondent no.2 trust. The Court is satisfied that the affidavit-cum-no-objection filed by the respondents no.2 to 4 supporting the case of the petitioner entitle the petitioner to the relief sought in the present petition. The requirement for furnishing of administrative-cum-surety bond is accordingly dispensed with.

25. Accordingly, the petition is allowed in favour of the petitioner.

26. Subject to the petitioner filing the requisite court fees, let the probate be issued upon the petitioner in respect of the Will of the Testator.

27. All pending applications stand disposed of.

AMIT BANSAL, J

OCTOBER 30, 2025

Vivek/-