

PC. No. 88, 89/16  
PRAN NATH MALHOTRA VS STATE  
VINOD KUMAR MALHOTRA VS STATE

27.07.2019

Present: None for the petitioner on call at 11.45. a.m.

Respondent No.3 in person in PC No. 89/16 and petitioner  
in PC No. 88/16.

Put up for order at 4.00 p.m.

(Sanatan Prasad)  
Additional District Judge-01  
(East)/KKD/Delhi/27.07.2019

4.00 P.M.

Present: None .

Vide this common order, I shall dispose of, two applications, moved U/Sec. 247 of the Indian Succession Act, 1925, by the rival sides for appointment of Receiver/Administrator, in both the respective Probate Petitions.

One application is for appointment of Sh. Rama Nand Malhotra i.e. petitioner No.2, in PC No. 89/16, as Administrator of the Estate of deceased, Sh. Daulat Ram Malhotra, in respect of property No. B-35, Gazipur Dairy farm, New Delhi on the ground that the petitioner No.2/applicant is one of the beneficiaries, under the 'WILL' dated 24.10.2011 of Sh. Daulat Ram Malhotra, bequeathing, of his movable and immovable assets to the petitioners and to the exclusion of his other Legal Heirs i.e. respondent No.2 to 4 and as such, deceased had bequeathed the builtup property i.e. B-35, Gazipur Dairy farm, New

Delhi, as owned by him, at the time of his death. It is also stated that respondent No.3 is, however, trying to disposed off the said property unlawfully and had executed a Lease Deed in favour of a person namely, Sh. Nitin Aggarwal, despite the pendency of the present Probate Petition, thereby causing serious apprehension of destruction or wastage of Estate/Property of deceased, hence the application.

Respondent No.3 i.e. Sh. Vinod Kumar Malhotra has contested the application and in fact, has moved a separate application, for his own appointment as Administrator in the related matter. It further, appears that on an earlier application, Sh. Sanjay Gupta, Advocate was appointed as Administrator by this court, vide order dated 04.03.2015, on the ground that respondent No.3 Sh. Vinod Malhotra, is letting out the suit property to various persons and therefore, appointment of an Administrator was necessary and respondent No.3 was also directed to give accounts of tenants and rent received by respondent No.3, from time to time but the respondent No.3 never complied with the said order on the ground that remuneration of Ld. Administrator was quite high and he was not in a position to pay the fees of Ld. Administrator on account of his own poverty. It further appears that despite umpteen directions and opportunities given, Sh. Vinod Kumar Malhotra, did not furnish the statement of account of rent received since 27.10.2011 and he merely has handed over an amount of Rs.10,000/- to the Ld. Administrator, but never co-ordinated and cooperated with him for identification/location of the property in question, as reported by the Ld. Administrator vide his report, filed in the court on 01.09.2015. Even despite directions to file

statement of account with supporting affidavit within a week from the order dated 07.04.2016, no compliance has been made by Sh. Vinod Kumar Malhotra, so far. However, on 11.01.2018 an envelope was deposited by him, in the court, containing sets of keys and one set was in triplicate, purportedly, the keys of the premises in question and thereafter parties made requests for mediation, which was almost a non starter.

It further, appears that the rival applicants are contending their rights on the strength of two 'WILL'/(s), one dated 27.06.2011, wherein Sh. Vinod Kumar Malhotra is made beneficiary and in the other 'WILL' dated 24.10.2011, other side claims to have been made beneficiaries and consequently there are two Probate Petitions, pending trial in this court and therefore, it is not possible, for this court to appoint administrator/ receiver from any of the rival sides, however, the property in question is now, obviously, lying unoccupied and vacant and as such it also runs the risk of wastage and deterioration if, left unattended for long and the keys are deposited with the court.

With the passage of time and request made for referring the matter to mediation, it seems that parties have now come around to preserve the property and also get its usufruct, by letting it to tenants and also simultaneously maintaining the property from the income so received and as such in order to achieve all these objectives, appointment of administrator/receiver has become necessary and now, the court is called upon to appoint a non partisan and independent person as administrator/receiver but no further order is required to achieve these objectives as there are already sufficient orders passed by this court and

consequently the appointment of administrator, vide order dated 04.03.2015 is reiterated and the same shall be set to further operation with the aid of further order, dated 07.04.2016, thereby modifying the remuneration of Ld. Administrator to Rs.10,000/- per month from Rs.5000/- per month and also further directing him to take the possession of the suit property and let out the suit property to the prospective tenants by entering into a rent agreement and also maintaining the accounts therefor. It was also clarified by that order that if it so happen, then, till that day whatever will accrue, his fee, shall be payable by the parties in equal share of 50 :50. Both the applications are now being disposed in above terms. Now to come up on 09.08.21019 for sorting out the modalities of handing over the possession/key/(s), to the Ld. Administrator also statement of account of rent/expenses by Sh. Vinod Kumar Malhotra, i.e. respondent No.3 in PC NO. 89/16 and petitioner in PC NO. 88/16. A copy of this order be placed on the record of each file.

(Sanatan Prasad)  
Additional District Judge-01  
(East)/KKD/Delhi/27.07.2019