

27.11.2021

Proceedings have been held by way of physical hearing.

Present: Ms Indira Marla, counsel for petitioner.
Sh. Amand Bhalla, counsel for respondents no. 2 & 3.
Sh. Diwan Singh Chauhan, counsel for respondent no. 4.
Mr. Hem Chand, Bailiff for SDM, Rajouri Garden.

The Tehsildar, Rajouri Garden has filed report that petitioner did not allow his staff to value the property and hence, valuation cannot be filed. Ld. Counsel for the petitioner submitted that she would make him understood and thereafter he would allow the staff of Tehsildar, Rajouri Garden to inspect the property and prepare the valuation report.

An application under order 32 rule 3 read with section 151 CPC is pending for appointment of guardian /next friend for respondent no. 3. The counsel for applicant argued that respondent no. 3 is mentally challenged and is incapable of looking after his interest in the petition. Respondent no. 2 is the real brother of the petitioner as well as of respondent no. 3 and it is he who is looking after his financial and other day to day needs since long and hence, he may be appointed guardian/ next friend of respondent no. 3.

The counsel for respondent nos. 2 & 3 submitted that his client/respondent no. 2 is looking after the interest of his mentally challenged brother/respondent no. 3 for last 40 years. He further submitted that even the Hon'ble High Court has also appointed him guardian in some other case.

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On the other hand, the application has been opposed by Sh. Diwan Singh Chauhan, on the ground that there is collusion between respondent nos. 2& 3 in one side and petitioner on the other side.

Merely because the consent has been given by respondent no. 2 for being appointed as guardian of respondent no. 3, does not amount to collusion with the petitioner. In fact, the respondent no. 2 has already been appointed as a guardian of respondent no.3 by Hon'ble High Court vide order dated 07.03.2018 case titled as Naresh Bedi Vs Vandana Bedi & Ors. in CS(OS)452/2016. In view of that decision and arguments of the counsel , the application is allowed and Mr. Rajesh Bedi, respondent no. 2 is appointed as guardian of respondent no. 3 Subhash Bedi.

Mr. Dewan Singh submitted that the petitioner filed a bunch of documents with replication without permission of the court and those documents be not taken on record. The counsel for petitioner submitted though such application is not required, she would move such application for permission of the court to take those documents on record.

Pleading are already complete and following issues are framed:-

1. Whether the will dated 28.02.1990 executed by late Smt. Sheela Bedi is her last genuine, legal, valid will and duly executed in his sound disposing mind? OPP
2. Whether the petitioner is entitled for Probate/Letter of Administration on the basis of the aforesaid Will, as claimed? OPP
3. Whether the petition is liable to be dismissed for the objections raised by respondent no. 4 in the written objections?

OPR.

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4. Whether the petition is barred by limitation? OPR-4.
5. Relief.

No other issue arises or pressed for. Parties are directed to file affidavit in evidence of their proposed witnesses on the next date. First the evidence shall be led by the petitioner and he is directed to supply copy of affidavit of proposed witnesses to the opposite party atleast 7 days before the next date. Parties are directed to file list of witnesses within 15 days from today.

Put up for filing of valuation report and PE on 18.02.2022.

(Umed Singh Grewal)
ADJ-02, WEST
27.11.2021