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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ TEST.CAS. 16/2007

SHRI GAUTAM THAPAR .....Petitioner

Through: Mr. Rajat Navet and Mr. Rajat Rana, Advs.

versus

STATE & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% **30.04.2026**

I.A. 12175/2026 (under Section 291 of Indian Succession Act, 1925 read with Section 151 CPC on behalf of petitioner)

1. By virtue of present application, the plaintiff seeks exemption from filing the administrative bond and the surety bond.

2. Mr. Rajat Navet, learned counsel appearing on behalf of petitioner/applicant submits that the petitioner being executor of the Will of Late Sh. Lalit Mohan Thapar had filed petition seeking probate of his last Will dated 20.12.2004.

3. This Court *vide* judgment dated 06.05.2009 had granted probate for the Will of late Lalit Mohan Thapar as amended by codicil dated 13.06.2026 in respect of the properties detailed in the Annexures annexed to the petition subject to the petitioner furnishing requisite court fee and necessary bond with one surety.

4. Learned counsel submits that the applicant has already deposited the requisite fee. However, the administrative bond and surety could not be furnished by the petitioner as the amount involved was about Rs. 60 crores.

5. He submits that the probate was granted as early as in May, 2009 and

the executor in deference to the wishes stipulated in the Will of late sh. Lalit Mohan Thapar has already satisfied the request made in the Will by making payments of amounts as per the Will to the beneficiaries named therein.

6. He submits that the estate of late Lalit Mohan Thapar, has also been duly administered and all requests made in that behalf have also been fulfilled/satisfied as per the instructions set forth by the Testator in his Will/codicil except for one Fixed Deposit Receipt (FDR) No. 183896 (having Account No. 00073031074913) dated 15.09.2016, having a current maturity value of approximately 3 crores with Oriental Bank of Commerce, E-Block, Connaught Place Branch, which is to be donated to Patiala Technical Education Trust (now known as Thapar Education Trust).

7. He submits that once the administration certificate is issued, the said part of the bequest shall also be executed and satisfied by the petitioner.

8. He submits that the petitioner could not arrange for the administrative and surety bond because of the high value involved in the present matter.

9. He submits that the present case was uncontested. To buttress his contention he invited attention of the Court to following para 5 of the judgment dated 06.05.2009:

> *"5. The notice of the probate petition was issued to all the near relations and a general notice was also published in the Delhi edition of 'Statesman' and 'Pioneer'. The petition is not contested by any of the legal heirs of the testator and all the respondents have filed their no objection to grant of Probate in respect of Will of the deceased. The affidavits of the legal heirs giving their no objections ha s been exhibited as exhibits Ex. P-5 to Ex. P-10 ."*

10. He also places reliance on the decision of this Court in ***Aparna Mutatkar & Anr. vs. State of NCT of Delhi,*** in TEST. CAS. 95/2021 dated

30.01.2026, more particularly to paras 26, 27, 28 and 29, wherein regard being had to the fact that the petition remained uncontested. The said paras of the judgment reads thus:

> *"26. At this stage, Mr. Ramakrishna submits that since the petitioners are only beneficiaries under the Will, therefore, they may be exempted from filing of administration and surety bond regard being had to the fact that the present petition was uncontested one. In support of his submission he placed reliance on the decision of this Court in* ***Sanjay Suri vs State and Ors., 2003 SCC OnLine Del 966.***
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> *27. Section 291 of the Act provides that the District Judge may demand from the person to whom probate is granted, a bond with one or more sureties. This Court in* **Sanjay Suri** *(supra) observed that Section 291 of the Act has to be interpreted so as not being applicable to a case of a sole beneficiary and legal heir, under a duly proved Will insofar as requirement of furnishing an administration bond is concerned. The relevant extract from the said decision reads thus:*
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>> *"28. Considering the nature of the Testamentary and Intestate succession, the object and purpose sought to be achieved by Section 291 and thus applying the aforesaid principles of interpretation of statutes, it would be seen that Section 291 of the Act is not intended to cover within its ambit the cases of a sole beneficiary and legal heir under a Will being required to furnish administration/surety bond. One cannot administer the estate or his own estate against himself, for which he be required to give an indemnity or administration bond. Besides, none of the purposes and objectives of Section 291 of the Act are covered or fulfilled by the execution of an administration/surety bond by the sole inheritor or beneficiary under the Will duly proved. Such an exercise would be an exercise in futility. In the instant case if the petitioner's grand son was to mismanage or maladminister, he would be, doing so only against his own and personal interests. A right that clearly vests in him by virtue of the bequest. Hence insistence of furnishing the administration bond in the present case would not only be meaningless and without any purpose, but*

inconsistent with succession. Section 291 in the light of the foregoing principles of interpretation, as noticed, has to be interpreted so as not being applicable to a case of a sole beneficiary and legal heir, under a duly proved Will insofar as requirement of furnishing an administration bond is concerned."

*28. Likewise, in **Arvind Nanda vs. State** (2020:DHC:1457) the Court had considered the decision of ld. Divisional Bench of this Court in **Rajesh Kumar Sharma and Ors. vs. Estate of late Raj Pal Sharma & Ors., [W.P.(C) 9108/2011, decided on 02.01.2012]** where it was held that the imposition of a condition for furnishing surety is in the discretion of the Court and the same is not mandatory. Para 10 of **Arvind Nanda (supra)** reads as under:*

"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 ld. Division Bench of this Court in **Rajesh Kumar Sharma (supra)**, the imposition of a condition is not mandatory."*

29. In view of the exposition of law noted hereinabove, the petitioners being the legal heirs and the only beneficiaries under the Will, which remained uncontested, no useful purpose will be served by insisting upon the furnishing of administration or surety *bond. The petitioners are, therefore, exempted from executing or submitting any administration or surety bond."*

11. The application is allowed and disposed of.

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12. List before learned Joint Registrar for further proceedings on 19.05.2026.

VIKAS MAHAJAN, J

APRIL 30, 2026
N.S. ASWAL