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

Date of decision: 18th FEBRUARY, 2026

IN THE MATTER OF:

+ **TEST.CAS. 78/2023 & I.A. 24275/2025**

MISS SUMAN KAPOOR

.....Petitioner

Through: Ms. Nandni Sahni and Ms. Trisha
Laroiya, Advs

versus

STATE (GOVT OF NCT OF DELHI)

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The present Petition has been filed under Section 276 of the Indian Succession Act, 1925 (*hereinafter referred to as “the Act”*) by the Petitioner for grant of probate of the Will dated 30.04.2003 executed by Late Mrs. Raj Kapoor (*hereinafter referred to as “the testatrix”*).
2. The Petitioner is one of the surviving Class I legal heir of the testatrix. The testatrix has three children namely, the Petitioner herein, Late Mrs. Kukula Kapoor Glastris (died on 29.08.2017) and Mr. Sanjay Kapoor. Thus, other than the aforementioned, there are no surviving Class I legal heir of the testatrix.
3. The Petitioner herein is facing difficulties with respect to some of the movable/immovable properties left behind by the testatrix, as the concerned authorities insist for obtaining Probate Petition before proceeding further for



grant of permissions etc., in respect of re-development/renovation of property bearing No.55, Jor Bagh, Lodhi Road, Central, New Delhi – 110003. Consequently, this Court is now constrained to proceed with the adjudication of the matter on the merits.

Factual Matrix

4. The testatrix was married to Late Shri Randhir Singh Kapoor and was a resident of property bearing No.55, Jor Bagh, Lodhi Road, Central, New Delhi – 110003. She passed away on 27.10.2011 in Delhi. She was survived by one son and two daughters. One of her daughters Mrs. Kukula Kapoor Glastris passed away on 29.08.2017 in USA and was survived by Mrs. Hope Glastris Schindler (daughter) and Mr. Adam Glastris (son).

5. The testatrix had allegedly executed her last Will and Testament dated 30.04.2003 (*hereinafter referred to as “the Will”*) at Delhi. The Will was duly registered in the office of the Sub-Registrar-V, New Delhi, under Registration No.2642 in Book No.3, Volume No.1099 at Pages 156 to 157 on 01.05.2003. As per the Petitioner, the Will names her as the exclusive beneficiary of various movable and immovable properties of the testatrix.

6. The Will of the testatrix included the following immovable properties: (i) 55, Jor Bagh, Lodhi Road, Central, New Delhi – 110003; (ii) Farm House at Choti Gwal Pahadi, Tehsil Sohna, District Gurgaon, Haryana; and (iii) six shops bearing No.LGF E-26, LGF E-25, GF E-126, LGF E-52, LGF E-53, GF E-152, situated at Sushant Shopping Arcade, Sushant Lok, Gurgaon, Haryana booked with M/s Ansal Properties and Industries Ltd. The testatrix also had certain movable properties being: (i) bank account with Central Bank of India, Jor Bagh, New Delhi – 110003; and (ii) locker bearing No. 314 with Central Bank of India, Jor Bagh, New Delhi – 110003 which



contains all her jewellery items, other valuable items and securities. Further, the Will also mentions that the testatrix and the Petitioner, are carrying on business under the name & style of M/s Chocolate Wheels.

7. On 09.10.2023, notice was issued and citation was ordered to be published. Subsequently, on 31.10.2023, notice was issued to all the legal heirs and next of kin of the testatrix. *Vide* Order dated 01.02.2024, it was recorded that the citation published in the newspapers 'Nav Bharat Times' and 'The Statesman' dated 12.12.2023 had been received on record. Thereafter, by Order dated 08.08.2024, near relatives, Mrs. Hope Glastris Schindler and Mr. Adam Glastris, entered appearance and filed their respective 'No-Objection' affidavits in this case.

8. *Vide* Order 13.09.2024, Mr. Sanjay Kapoor, brother of the Petitioner, was proceeded against *ex-parte*. The said Order is reproduced herein below:

"1. Learned Counsel for the petitioner states that a list of near relations of Testatrix has been filed at page 15 in the documents. She states that the relative at serial nos. 2 and 3 have already filed their no objection affidavit, confirming that they admit the valid execution of the Will dated 30.04.2003.

2. She states that the relative mentioned at serial no. 1, Mr. Sanjay Kapoor, has been duly served and has acknowledged receipt of service on 31.01.2024 in his response email addressed to the counsel on record, Mr. Sachin Bandooni, and copied to the other relatives listed at serial numbers 2 and 3.

3. The affidavit of service with respect to Sh. Sanjay Kapoor is available on record and has been filed vide diary no. 1609455/2024.

4. She states however, none appears on behalf Mr.



Sanjay Kapoor, relative no. 1 and he therefore may be proceeded ex-parte. She also relies upon order dated 08.08.2024 of the learned Joint Registrar (J) in this regard.

5. Accordingly, in view of the aforesaid facts, this Court is satisfied that Mr Sanjay Kapoor has been duly notified about the pendency of the present proceedings. However, none appears on behalf of Mr. Sanjay Kapoor. Accordingly, Mr. Sanjay Kapoor-relative no. 1 is hereby proceeded ex-parte.

6. Learned counsel for the petitioner has proposed the following issues:

(i) Whether the Will dated 30.04.2003 duly registered on 01.05.2003 executed by Late Mrs. Raj Kapoor propounded by the petitioner is her last genuine will and testament? OPP

(ii) Whether the will dated 30.04.2023 by late Mrs. Raj Kapoor was validly executed/got registered by her in accordance with law? OPP

(iii) Relief and costs.

7. No other issue is pressed by the petitioner.

8. She states that list of witnesses will be filed within one (1) week and the evidence affidavit of the petitioner and the attesting witness will be filed within two (2) weeks thereafter.

9. List before the learned Joint Registrar (J) for fixing the dates for recording of evidence on 14.10.2024”

9. It is pertinent to mention that there are no objectors/objections to the Will in the present Petition.



10. The Petitioner got herself examined as PW-2. There are two attesting witnesses, i.e., Rudra Poudel and Mr. Sunil K. Atreya. Rudra Poudel was examined as PW-1.

11. It is pertinent to point out that Ms. Suman Kapoor is the Petitioner herein and also the sole beneficiary of the Will. The concerned officer from the office of Sub-Registrar was named in the list of witnesses, filed on behalf of the Petitioner, but was never examined.

Submissions

12. Learned Counsel for the Petitioner made the following submissions:

- a) The Will was duly executed by the testatrix. It is a registered document. The testatrix was in sound disposing state of mind at the time of execution of the Will, as well as at the time of registration of the Will on 01.05.2003.
- b) That the testatrix was an active and an educated lady and had utmost faith on the Petitioner.
- c) One of the attesting witnesses, PW-1 Rudra Poudel deposed that the testatrix had executed the Will in his presence, while being in a sound and disposing state of mind, thereby proving proper attestation. The testimony of the attesting witness, along with the registration and production of the original Will, fully satisfy the requirements of Section 63 of the Act and Section 68 of the Indian Evidence Act, 1872.
- d) The testatrix had executed the Will at her residence in the presence of two attesting witnesses namely, PW-1 Rudra Poudel and Mr. Sunil Atreya. Further, declaration by Mr. Rudra Poudel, has also been placed on record along with the present Petition.



- e) It is stated that the Petitioner had duly informed her siblings, namely her brother and sister, about the existence of the Will. It is further pointed out that subsequent to the sale of the Farm House, the Petitioner transferred a sum of Rs.60,00,000/- to her brother, Mr. Sanjay Kapoor. The said amount was transferred to Mr. Sanjay Kapoor as a gift through foreign remittances during the period 2014 to 2016.
- f) That the testatrix and the Petitioner shared cordial and affectionate relations her deceased sister, Late Mrs. Kukula Kapoor Glastris. It is stated that during her lifetime, the testatrix had extended financial assistance and bestowed gifts upon her daughter, Late Mrs. Kukula Kapoor Glastris, as well as her family members, particularly during their visits to India.

13. Heard the learned Counsel for the Petitioner and perused the material on record.

14. PW-1 Rudra Poudel, who is an attesting witness to the Will, in his examination-in-chief, deposed that he had verified the present Petition by way of verification dated 04.09.2023, which bears his signatures. He further stated that he had executed a supporting Affidavit and Declaration, both dated 04.09.2023, and identified his signatures thereon. He deposed that he is one of the attesting witnesses to the Will and that the same was executed by the testatrix in his presence as well as in the presence of the other attesting witness, at the same time and place, and in the presence of the testatrix. He further stated that the Will is a registered document, registered on 01.05.2023 before the Sub-Registrar V, New Delhi. He also stated that the testatrix was in a sound disposing state of mind at the time of execution



and registration of the Will. He also identified the original Will and affirmed his signature thereon as an attesting witness, as well as the signature of the other attesting witness. Since there is no objector to the Will, therefore, there was no cross-examination.

15. PW-2 Ms. Suman Kapoor, in her examination-in-chief, deposed that she had seen the original death certificate of the testatrix. She also produced the original Conveyance Deed dated 11.02.2011 executed in favour of the testatrix in respect of the property being 55, Jor Bagh, New Delhi - 110003 by the competent authority. She further stated that she had perused the declaration filed by PW-1 and identified his signatures thereon, and also confirmed the filing of his verification, supporting affidavit and declaration dated 04.09.2023. She further placed on record the list of near relations of the testatrix, the details of assets, and the valuation chart of the properties before this Court. She further deposed that in 2012 she had submitted an Application dated 22.05.2012 before the New Delhi Municipal Council (“NDMC”) seeking mutation of the property in her name, pursuant to which the said authority effected mutation *vide* Order dated 26.09.2012. She also proved payment of requisite charges to the said authority and produced Receipt No. 226754 dated 21.12.2012. Additionally, she placed on record copies of three Agreements to Sell dated 19.09.2004 and two undated Agreements to Sell pertaining to the sale of three properties of the testatrix, namely Shop No. GF E-52 in Block E, LG E-53 and LG E-152 at Sushant Shopping Arcade, Gurgaon, Haryana.

16. It is pertinent to note that Respondent No.1/State did not appear to cross-examine the witnesses. The two children of the deceased daughter of the testatrix, Late Mrs. Kukula Kapoor Glastris, entered appearance and



filed their respective No-Objection Certificates, expressing no opposition to the grant of probate. The brother of the Petitioner, Mr. Sanjay Kapoor, was proceeded *ex-parte vide* Order dated 13.09.2024 of this Court. In the absence of any contest or cross-examination, the evidence tendered by way of Affidavits on behalf of the Petitioner and Mr. Rudra Poudel remained unrebutted and unchallenged, and there being no reason to disbelieve the same, the said evidence is taken on record and accepted as correct.

17. Section 68 of the Indian Evidence Act, 1872 lays down the procedure of proving a Will. Section 68 of the Indian Evidence Act, 1872 reads as under:

“68. Proof of execution of document required by law to be attested.—

If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908 (16 of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.”

18. In the opinion of this Court all the ingredients of Section 63 of the Act and Section 68 of the Indian Evidence Act, 1872 are satisfied.

19. The Apex Court in Meena Pradhan & Ors. v. Kamla Pradhan & Anr., 2023 (9) SCC 734, has observed as under:



“10. Relying on H. VenkatachalaIyengar v. B.N. Thimmajamma [H. VenkatachalaIyengar v. B.N. Thimmajamma, 1958 SCC OnLine SC 31 : 1959 Supp (1) SCR 426 : AIR 1959 SC 443] (three-Judge Bench), Bhagwan Kaur v. Kartar Kaur [Bhagwan Kaur v. Kartar Kaur, (1994) 5 SCC 135] (three-Judge Bench), Janki Narayan Bhoir v. Narayan Namdeo Kadam [Janki Narayan Bhoir v. Narayan Namdeo Kadam, (2003) 2 SCC 91] (two-Judge Bench), Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar Singh [Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar Singh, (2009) 4 SCC 780 : (2009) 2 SCC (Civ) 348] (three-Judge Bench) and Shivakumar v. Sharanabasappa [Shivakumar v. Sharanabasappa, (2021) 11 SCC 277] (three-Judge Bench), we can deduce/infer the following principles required for proving the validity and execution of the will:

10.1. The court has to consider two aspects : firstly, that the will is executed by the testator, and secondly, that it was the last will executed by him;

10.2. It is not required to be proved with mathematical accuracy, but the test of satisfaction of the prudent mind has to be applied.

10.3. A will is required to fulfil all the formalities required under Section 63 of the Succession Act, that is to say:

(a) The testator shall sign or affix his mark to the will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as a will;

(b) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;



(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of such signatures;
(d) Each of the attesting witnesses shall sign the will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

10.4. For the purpose of proving the execution of the will, at least one of the attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence, shall be examined;

10.5. The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

10.6. If one attesting witness can prove the execution of the will, the examination of other attesting witnesses can be dispensed with;

10.7. Where one attesting witness examined to prove the will fails to prove its due execution, then the other available attesting witness has to be called to supplement his evidence;

20. In the opinion of this Court, the second question as to whether the Will is surrounded by any suspicious circumstances or not will not arise at all as there are no objectors/objections to the Will.

21. In the instant case, PW-1 Rudra Poudel has deposed that the testatrix executed the Will in his presence and that he attested the Will in the presence of the testatrix which satisfies the ingredients of Section 63 of the



Act and Section 68 of the Indian Evidence Act, 1872.

22. In the opinion of this Court, there is no suspicious circumstance surrounding the Will. The evidence of PW-1 and PW-2 are cogent and nothing has been shown to this Court which points out towards any unnatural or suspicious circumstance which can vitiate the Will.

23. In view of the above, the Petition is allowed.

24. Subject to the Petitioner filing the requisite Court fee and furnishing the bond, probate be granted in favour of the Petitioner.

25. The Petition is disposed of, along with all the pending applications, if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 18, 2026

JR