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

\+ TEST.CAS. 64/2025

VIVEK MATHUR .....Petitioner

Through: Mr. Ateev Mathur and Mr. Amol Sharma, Advocates.

versus

STATE OF NCT OF DELHI AND ORS .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 23.04.2026

I.A. 11252/2026 (under Section 151 CPC seeking exemption/waiver of executing administrative bond and surety bond)

1. The present application has been filed by the petitioner/applicant praying for dispensation of condition for furnishing administrative bond and surety bond.

2. It is stated in the application that the petitioner/applicant had filed application under Section 278 of the Indian Succession Act, 1925 seeking letter of administration with respect to the estate of late Shri Shahzad Bahadur (*hereinafter* referred as 'deceased').

3. The applicant is stated to be the son of the deceased, whereas respondent no. 2 and 3 are his daughters.

4. Pursuant to the issuance of notice, publication was made in the newspaper and an affidavit confirming the publication was filed. However,

no one raised any objection with regard to the said publication.

5. As a matter of fact, even respondent nos. 2 and 3 also filed their no objection stating that they have no objection in case the Letter of Administration (LoA) is granted in favour of the petitioner.

6. Accordingly, the petition was allowed and the Court directed for issuance of LoA in favour of the petitioner, subject to the valuation report and furnishing of bond, as well as, payment of applicable Court fee.

7. Learned counsel appearing on behalf of the applicant submits that Court fee has already been filed.

8. However, the prayer in the present application is with regard to the dispensation for furnishing administrative bond and surety bond.

9. Attention of the Court has been invited to Section 291 of the Indian Succession Act, 1925, which reads thus:

> *"**291. Administration-bond.**-(1) Every person to whom any grant of letters of administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.*
>
> *(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person--*
>
> *(a) the exception made by sub-section (1) in respect of a grant under section 241 shall not operate.*
>
> *(b) the District Judge may demand a like bond from any person to whom probate is granted."*

10. Section 291 of the Act provides that the District Judge may demand from the person to whom the letter of administrative has been granted, a bond with one or more surities.

11. This Court in ***Sanjay Suri vs. State and Ors., 2003 SCC OnLine Del***

966 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. The relevant extract of the said decision reads thus:

> *"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."***
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> *(emphasis supplied)*

12. 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."*

13. In the present case, the petitioner seeks a Letter of Administration to the estate of his deceased father in the absence of a Will. This Court notes that there is no reason why the exposition of law in the aforesaid cases, which dispenses with the requirement of furnishing an administration bond in the case of a sole beneficiary under a Will, ought not to be extended to an uncontested case seeking Letter of Administration in case of intestate succession. The object of the law of succession, whether testamentary or intestate, is to enable the Court to accord its seal of approval to the succession of the estate of the deceased. In this regard reference may had to the decision of a coordinate bench of this Court in ***Richa Pardeshi vs. State, 2012 SCC OnLine Del 2978***, wherein it was observed as under:

"13. Learned counsel for the petitioner submits, and I think rightly so, that ***there is no reason why the enunciation of the law relating to aforesaid case dispensing with furnishing of administration/surety bond in the case of a sole beneficiary under a Will should not be made applicable to the case of a sole beneficiary upon whom the estate of the deceased devolves by intestate succession. The object of the law of Succession, be it testamentary or intestate in nature, is to enable the Court, to lend its seal of approval to the succession of the estate of the deceased. It is trite that the judgment given in the exercise of both testamentary and intestate succession is a judgment "in rem".***

14. Indubitably, a greater degree of care is required in the case of intestate succession while appointing an administrator to take care of the estate of the deceased, but in all other respects the exercise of testamentary and intestate succession is predicated on the duty cast upon the Court to ensure that the estate of the deceased devolves in a proper manner upon the heirs of the deceased and is not frittered away. It is with this intentment that Section 291 of the Act requires furnishing of an administration bond both in the case of intestate succession and testamentary succession. As a matter of fact, the opening words of said Section are significant, which state "Every person to whom any grant of letters of administration, other than a grant under Section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct."

15. In view of the aforesaid, it is crystal clear that to hold that Section 291 envisages the furnishing of an administration bond by a sole beneficiary or a sole legatee would lead to absurd consequences, for, the said sole beneficiary/sole legatee would then he standing surety for the estate of the deceased, which has exclusively devolved upon him, and it would be paradoxical to hold that a person can stand surety for himself.

(emphasis supplied)

14. Having regard to the fact that the petition remained uncontested and the respondent nos. 2 and 3 have also given their no objection, this Court is of the view that the present application deserves to be allowed in view of the law exposited in the decisions of this Court noted hereinabove. Ordered accordingly.

15. Consequently, the requirement for furnishing of administrative bond and surety bond is dispensed with.

16. The application stands disposed of.

VIKAS MAHAJAN, J

APRIL 23, 2026/ar