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

% **Date of Decision: 17th July, 2018**

+ TEST.CAS. 99/2011

LOLITA GHOSE SHUKLA

..... Petitioner

Through: Mr.Satyawan Shekhawat, Mr.Ashish
Tiwari, Advocates

versus

STATE

..... Respondent

Through: Mr. Vipul Pankaj Sanghi, Ms.Ananya
Kar Sanghi, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioners are seeking Letters of Administration with the Will annexed of late Evelyn Marr.
2. Evelyn Marr (hereinafter referred to as 'testatrix') expired on 14th January, 2007 leaving behind a Will dated 05th November, 2005 in favour of her niece, Lolita Ghose Shukla who filed this petition on the averments that the testatrix was unmarried and she had five sisters, namely, Drusilla, Irene, Edna, Helen Gideon and Phyllis Gore and one brother, Hubert Marr; the parents of the testatrix had predeceased her; Irene and Edna were unmarried and they predeceased the testatrix; Lolita Ghose Shukla and her family were living with the testatrix since 1998 and looking after her till she expired; the

testatrix was absolute owner of freehold residential flat bearing No.E-41, DDA Flats, Ekta Apartments, Saket, Delhi-110017; the testatrix bequeathed the aforesaid flat in favour of Lolita Ghose Shukla; the Will dated 05th November, 2005 was witnessed by Deepa Mathur and Deepa Bhargava and their affidavits have been filed along with the petition; the names and addresses of the near relatives of the testatrix are mentioned in Schedule A; and all the relatives mentioned in Schedule A do not have any objection to the Will dated 05th November, 2005.

3. On 02nd November, 2011, notice of this petition was issued to the State as well as close relatives mentioned in Schedule A. and the citation was directed to be published in Delhi edition of 'Statesman'. Notice was also issued to the Chief Revenue Controlling Authority to submit the valuation report in respect of the immovable property mentioned in the Will.

4. The notices to the near relatives of the testatrix were duly served and all of them, namely Peter Gideon, Ayesha Gideon, Vikas Gore, Anita Gore, Shama Maira and Rama Raman have given their no objection by way of affidavit to the Will dated 05th November, 2005. The citation was duly published in 'Statesman' and no objections have been received. The Assistant Collector has submitted the valuation report in respect of the subject property on 09th February, 2012.

5. Lolita Ghose Shukla expired during the pendency of this petition and was survived by her son, Digbijoy J. Shukla and her husband, Praveer S. Shukla who were substituted in her place vide order dated 6th February, 2013.

6. The petitioner examined Deepa Bhargava as PW-1 and Deepa Mathur as PW-2 and they both deposed having witnessed the testatrix executing the

Will, Ex.PW-2/1. They further deposed that the testatrix was in sound mind and health at the time of executing of the Will. The original Will, Ex.PW-2/1 is a handwritten Will which has been signed by the testatrix as well as two witnesses at three places marked as 'A', 'B' and 'C' on Ex.PW-2/1. As per Ex.PW-2/1, the deceased bequeathed flat bearing No.E-41, DDA Flats, Ekta Apartments, Saket, Delhi-110017 to her niece, Lolita Ghose Shukla. PW-1 and PW-2 have proved the execution of the Will dated 05th November, 2005 by the testatrix. This Court is satisfied that the Will dated 05th November, 2005 is true and last Will of Evelyn Marr.

7. The petition is allowed and the Letters of Administration with Will dated 05th November, 2005 annexed is granted in favour of the petitioner, subject to the petitioner furnishing the requisite Court fee. Since the petitioners are the only beneficiaries, the petitioners are exempted from furnishing of the administration and surety bonds.

8. Copy of this judgment be given *dasti* to counsels for the parties under signature of Court Master.

JULY 17, 2018

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J.R.MIDHA, J.