



2025:DHC:2281



\$~O-65

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 47/2024**

Date of Decision: **26.03.2025**

IN THE MATTER OF:

ANUPAM KAPUR

.....Petitioner

Through: Mr.Anupam Srivastava, Sr. Advocate
with Ms.Sarita Pandey, Advocate.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: None.

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

JUDGEMENT

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The instant petition has been filed under Section 278 of the Indian Succession Act, 1925 (*hereinafter referred to as 'the Succession Act'*) seeking grant of Letter of Administration (*hereinafter referred to as 'LoA'*) without Will in respect of the estate of petitioner's late mother namely, Smt. Toshi Kapoor w/o Late Air Cdr. Padam Sen Kapur (*hereinafter referred to as the deceased*). The estate of the deceased comprises of immovable property bearing No.D-143, First Floor, Anand Niketan, New Delhi-110021 (*hereinafter referred to as 'subject property'*) which has been valued at Rs.3,00,00,000/- (Rupees Three Crores) by the petitioner. However, as per



2025:DHC:2281



the valuation report which has been submitted by the Tehsildar/ Executive Magistrate, Sub Division, Delhi Cantt, Delhi, the net worth of the subject property is Rs.5,33,32,380/- in consonance with notification dated 23.09.2014.

2. The deceased acquired the right in the said property by virtue of a Will dated 06.03.1997 executed in favour of the deceased by one Capt. Shib Charan Singh. The deceased filed a probate petition before the Court District Judge, Saket Courts, New Delhi which was registered as PC No.5914/2016. The concerned Court directed for issuance of LoA in favour of the deceased *qua* the subject property of Will dated 06.03.1997. Before the formalities for obtaining the LoA could be completed, the applicant therein, i.e. the deceased expired on 06.11.2022.

3. The deceased was ordinarily residing at property bearing No.F 4/3, Vasant Vihar, New Delhi-110057. The Court, thus, has the jurisdiction to entertain the instant petition.

4. It be noted that the instant petition is not contested as there seems to be no legal heir or any relative of the deceased except the petitioner. The sole respondent i.e. State of NCT of Delhi also does not have any objection in granting of LoA in favour of the petitioner.

5. It be also noted that even the citations were published in the newspaper '*The Statesmen*' on 17.07.2024 and in '*Dainik Jagran*' on 18.07.2024, despite that, no objection has been raised by any of the relatives of the deceased or any member of the public.

6. The petitioner herself has appeared as PW-1, wherein, she has proved the copy of death certificate of the deceased and various other documents



are also exhibited which are as under:-

- (i) Copy of death certificate dated 06.11.2022 of Smt. Toshi Kapur **Ex.PWI/1 (OSR)**
- (ii) Copy of death certificate of my father Late Air Cdr. Sh. Padam Sen Kapur (date of death- 30.04.1984) **Ex.PWI/2 (OSR)**
- (iii) Copy of surviving membership certificate **Ex.PWI/3 (OSR)**
- (iv) Certified copy of order dated 23.09.2017 passed by the Court of Dr. Ajay Gulati, Additional Plaintiff and Defendant Photocopy Issued by Saket Court South District Petitioner 5-29 1 TEST.CAS.-47/2024 District Judge, Saket Courts, South District, New Delhi in PC No. 5914/2016 **Ex.PWI/4 (OSR)**

7. The evidence and the material placed on record by the petitioner would expressly indicate that except the petitioner, there remains no one else who claims any right or interest over the property in question. It also remains undisputed that the petitioner is the sole surviving legal heir of the deceased.

8. Recently, the Court in the case of **Raj Mohini Juneja V. State And Ors.**¹ vide paragraph nos. 8 and 9 has observed as under:-

“8. This Court in the case of Sh. Raj Rani Bhasin vs. State², has held that the person to whom LoA is granted does not thereby, become entitled to the property or estate of the deceased/testator and the estate still succeeds according to the law of succession applicable to the deceased/testator. The primary objective of a LoA, issued by the Court, is to authorize the appointed administrator to gather and consolidate the assets of the deceased or testator. It also allows the administrator to interact with relevant authorities where such assets are held or recorded, enabling the realization of those assets and facilitating their

¹ 2025:DHC:1993



transfer to the rightful successors in accordance with the applicable laws of succession. It was further held that the administrator is required to, from time-to-time, to file accounts in the Court with respect to the administration of the estate and/ or as to how the estate has been settled/ transferred to the successors in accordance with the law of succession applicable to the deceased and upon the administrator defaulting in the same, the Court retains the power to revoke the grant. For the sake of clarity, Paragraph no.9 of the aforesaid decision reads as under:

“9. The person to whom letters of administration are granted does not thereby become entitled to the property or estate of the deceased. The estate still succeeds according to the law of succession application to the deceased. The purpose of Letters of Administration is merely to enable the administrator so appointed by the Court to collect/ assimilate the properties of the deceased, and/ or to deal with the various authorities with whom the properties of the deceased may be vested or recorded and to realize the same and / or to have the same transferred in the names of the successors in accordance with law of succession applicable to the deceased. The administrator is required to, from time-to-time, file accounts in the Court with respect to the administration of the estate and/ or as to how the estate has been settled/ transferred to the successors in accordance with law of succession application to the deceased and upon the administrator defaulting in the same, the Court retains the power to revoke the grant”

*9. More importantly, this Court in **Puneet Kumar Anand v. Pishori Lal (Deceased) Thr Lrs**³, in a similar factual matrix, has held that a conditional bequest made by the testator to his/her spouse to enjoy the property in the lifetime of the spouse, with a further condition that upon the death of such beneficiary/spouse, the subject properties shall dwell upon their children, constitutes a valid bequest in the eyes of law. The relevant extract of the decision reads as under:-*

*“...However, upon a perusal of the same, it is seen that, the Court, after considering the principles laid down in *Radha Sundar Dutta v. Mohd. Jahadur*¹⁴ and *Rameshwar Bakhsh Singh v. Balraj Kuar*¹⁵, formulated the legal principle that **when a testator grants a restricted or limited interest in the property, they retain the authority to make a subsequent bequest of the same property, effective upon the death of the***



2025:DHC:2281



initial beneficiary, within the same will...”

9. It is, thus, unequivocal that the petitioner is entitled to enjoy the right of administration in the absence of there being any will or testament or any other surviving legal heir of the deceased.
10. In view of the aforesaid, the Court directs that the LoA be issued in favour of the petitioner by the concerned Registrar subject to furnishing the bond as well as the payment of the applicable Court fee.
11. Ordered accordingly.
12. The instant petition stands disposed of along with other pending applications.

PURUSHAINDR KUMAR KAURAV, J

MARCH 26, 2025

Nc/dp

Click here to check corrigendum, if any