



2025:DHC:3231



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

+ **TEST.CAS. 41/2024**

Date of Decision: **24.04.2025**

IN THE MATTER OF:

1. **J GOPAL MIRCHANDANI**
S/O SH. T. T. MIRCHANDANI
R/O 41, OCEAN VIEW, 66,
DUMAYNE ROAD, COLABA,
MUMBAI – 400005
2. **MR. RAJESH THADANI**
S/O N. T. THADANI
R/O A-17, MAYFAIR GARDENS,
HAUZ KHAS, NEW DELHI

..... PETITIONERS

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

Versus

1. **STATE**
THROUGH ITS STANDING COUNSEL
2. **MR. J DAYAL MIRCHANDANI .**
S/O LATE SH. MR. TIKAM TANUMAL MIRCHANDANI
201 THE ADDRESS CHS LTD.,
BEHIND RIVER CREST SOCIETY,
BOAT CLUB ROAD, NEAR CITY POINT,
PUNE CITY, PUNE 411001
3. **MR. AJIT KISHANCHAND HIRANANDANI**
S/O LATE MRS. GANGA KISHANCHAND HIRANANDANI
ARRIVE APARTMENTS, 5901,



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MONTROSE ROAD, APT N208,
ROCKVILLE, MD 20852, USA

4. **MRS. INDIRA KAMAL BHAVNANI**
D/O LATE MRS. GANGA KISHANCHAND HIRANANDANI
7, HINDUSTAN HOUSE,
3RD FLOOR, 28 ALTAMOUNT ROAD,
MUMBAI 400026
 5. **MR. PREM GOBINDRAM MALKANI**
S/O LATE MRS. RUKI GOBIHDRAM MALKANI
55, CENTRAL AVENUE,
PINNER, HA55BT, UK
 6. **MR. RANJIT GOBINDRAM MALKANI**
S/O LATE MRS. RUKI GOBINDRAM MALKANI
73B NCPA APARTMENTS,
NARIMAN POINT,
MUMBAI 400021
 7. **MR. GAUTAM MOTIRAM ADVANI**
S/O LATE MRS. SUSHILA MOTIRAM ADVANI
531 MAIN STREET,
APARTMENT 508,
ROOSEVELT ISLAND,
NEW YORK,
NY 10044. USA
 8. **MR DILIP MOTIRAM ADVANI**
S/O LATE MRS. SUSHILA MOTIRAM ADVANI
117 EAST 57TH STREET,
APARTMENT 42H, NEW YORK
NY 10022, USA
- RESPONDENTS

Through: None.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The instant petition has been filed by the petitioners under Section



276 of the Indian Succession Act, 1925 (*hereinafter “the Succession Act”*), seeking probate of registered Will dated 25.01.2023 (*hereinafter “the Will”*) of the late Mrs. Penelope Estabrook Mirchandani (*hereinafter “the Testatrix”*) in respect to the immovable property i.e. First Floor, D-6, Westend, New Delhi-110021 as well as various movable properties listed in Schedule-I and Schedule-II annexed to the petition.

2. It is the case of the petitioners that the testatrix had expired on 17.08.2023. During her lifetime, she executed a Will dated 25.01.2023, which was duly registered on 20.02.2023 with the office of the Sub-Registrar-VIIIA, *vide* Registration No.109 in Book No.3, Vol. No.146. It is stated that the Will was the last Will of the testatrix. Furthermore, it is averred that all Class-I legal heirs of the Testatrix had predeceased her, and she was survived only by the Class-II legal heirs of her husband, Mr. Keval Tanumal Mirchandani, as mentioned in paragraph 6 of the petition, which reads as under:-

S.No	Name & Address	Relationship with Deceased
1.	Mr. J Dayal Mirchandani 201 The Address CHS Ltd., Behind River Crest Society, Boat Club Road, Near City Point, Pune City, Pune 411001	Nephew (son of Mr. Tikam Tanumal Mirchandani)
2.	Mr. J Gopal Mirchandani 41 Ocean View, 66 Dumayne Road, Colaba Mumbai 400005	Nephew (son of Mr. Tikam Tanumal Mirchandani) and one of the executor in the



		Will.
3.	Mr. Ajit Kishanchand Hiranandani Arrive Apartments, 5901, Montrose Road, APT N208, Rockville, MD 20852, USA	Nephew (son of Mrs Ganga Kishanchand Hiranandani)
4.	Mrs. Indira Kamal Bhavnani 7, Hindustan House, 3rd Floor, of 28 Altamount Road, Mumbai 400026	Niece (daughter of Mrs. Ganga Kishanchand Hiranandani)
5.	Mr. Prem Gobindram Malkani 55, Central Avenue, Pinner, HA55BT, UK	Nephew(son of Mrs. Rulki Gobindram Malkani)
6.	Mr. Ranjit Gobindram Malkani 73B NCP A Apartments, Nariman Point, Mumbai 400021	Nephew (son of Mrs. Rulki Gobindram Malkani)
7.	Mr. Gantam Motiram Advani 531 Main Street, Apartment 508, Roosevelt Island, New York, NY 10044, USA.	Nephew (son of mrs. Sushila Motiram Advani)
8.	Mr. Dilip Motiram Advani 117 East 57th Street, Apartment 42H, New York NY 10022. USA	Nephew (son of Mrs. Sushila Motiram Advani)

3. Upon filing of the instant petition, the Court directed for the issuance of notice. Public notice was published in the Hindi Daily '*Veer Arjun*' and English daily '*The Statesman*' both having circulation in Delhi. Notice was also issued to the concerned SDM for submission of the valuation report.



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The publication was carried out on 08.07.2024, and copies of the published notices have been placed on record. The concerned SDM submitted the valuation report on 09.09.2024, which has also been made part of the record.

4. The respondents have already been served, as recorded in orders dated 22.07.2024 and 18.09.2024. Despite service, none of the respondents has filed any objections *qua* the instant petition. Moreover, no objections have been received from the general public pursuant to the public notices in the newspapers.

5. One of the attesting witnesses, namely Mr.Govind Singh, has filed an affidavit in support of the instant petition. He has also verified that Mr. Akshat Singal, another witness of the Will also attested and signed the Will in his presence.

6. Hence, the instant proceedings remain uncontested, with no objections raised against the relief prayed for.

7. The particulars of the entire estate of the testatrix are given hereinunder:-

S.NO	IMMOVABLE PROPERTY (SCHEDULE I)	VALUE (IN RS.)
1.	Valuation of entire first-floor residential unit (i.e. level2 above the stilts) of property No. D-6 Westend, New Delhi-110021 with undivided rights in the said plot of land at D-6 Westend New Delhi.	Rs. 7,78,84,000/, valued as on 17.08.2023
S.NO	MOVABLE PROPERTY (SCHEDULE II)	
1.	Mutual funds 18,24,30,681	Mutual funds



					18,24,30,681
2.	Shares, which are already in Demat Account (As per list-2)				4,52,16,040
	Shares which are in physical form in joint name of Mr. K.T. Mirchandani and Mrs. Penelope Estabrook Mirchandani (As per list- 3)				
	S.No	Company name	Folio No.	No. of shares	
	a.	Reliance Industries	121011819	36	76,800
					17,000
	b.	KSB Pumps	K0000156	50	7,800
	c.	Tata Steel Ltd.	S1P0024819	60	9,900
	d.	Jio Financial Services Ltd.	Note: These shares have been issued on demerger of Reliance Industries in the ratio of 1:1. These are not included in Demat list of shares (Client ID : 10015983 -DP ID IN303778) and are awaited from the company.	36	



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3.	Valuation of Monies in banks held in saving and fixed deposit accounts with the follow details.				
	S.No	Bank	Account	Branch	
	a.	SBI	30227013146	Moti Bagh, New Delhi	4,220
	b.	Federal Bank	11940100059	West End, New Delhi	65,71,425
	c.	ICICI Bank	00650110735	Vasant Vihar	84,619
4.	Valuation of insurance policies				
	S.No	Insurance Co.	Policy No.	50,000	
	a.	LIC	111280722		
	b.	ICICI Prudential Life Insurance	73648010	30,00,000	
5.	Valuation of Monies invested in NSS (National Saving Scheme) held in Post Office, Lodhi Road in the Account No. 766913754				15,10,530
6.	The Certificates of registration of antiquities under Rule 12 and thus the following antique items requires no Valuation: (a) Antique Sculpture (Vishnu with divine figures), Nil (b) Antique Sculpture (Panel of Horse Men)				Nil
7.	Other Assets Valuation of movable property i.e. Steinway piano bearing serial number 159760				2,00,000
	Total				Rs.31,70,63,05

8. It is, thus, seen that in view of the aforesaid position, the Will dated



25.01.2023 stands proved as per the requirement of Section 63 of the Succession Act and Section 68 of the Indian Evidence Act, 1872 (*hereinafter "the Evidence Act"*).

9. Section 276 of the Succession Act, reads as under:-

"276. Petition for probate.—

(1) Application for probate or for letters of administration, with the Will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will or, in the cases mentioned in sections 237, 238 and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

(a) the time of the testator's death,

(b) that the writing annexed is his last Will and testament,

(c) that it was duly executed,

(d) the amount of assets which are likely to come to the petitioner's hands, and (e) when the application is for probate, that the petitioner is the executor named in the Will.

(2) In addition to these particulars, the petition shall further state,—(a) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and

(b) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(3) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another State, the petition shall further state the amount of such assets in each State and the District Judges within whose jurisdiction such assets are situate."

10. In the case of ***Ishwardeo Narain Singh v. Kamta Devi***¹, the Supreme Court delineated critical prerequisites for granting probate. *First*, the *onus probandi* rests on the petitioner to substantiate the authenticity of the Will



and voluntary execution by the testator. *Second*, probate proceedings, being *in rem*, are binding upon not only the litigants but also the public at large, coupled with a presumption of validity. *Third*, a will that appears regular and is duly attested engenders a presumption of validity, which holds unless contradicted by dubious circumstances. The Courts are tasked with ensuring the genuineness of the Will and dispelling any suspicions. Although technical evidentiary rules are applicable, the paramount criterion is the assurance of the Court with respect to the document's veracity.

11. The Court also takes note of the decisions passed by this Court in the cases of *Nikhil Kripalani vs. State Govt. Of NCT of Delhi*² and *Subhash Chopra and another Vs. State*³, and finds that the ingredients of Section 276 of the Succession Act have been duly satisfied by the petitioners. There appears to be no impediment to issuing the Letter of Probate.

12. In view of the enunciation of law laid down in the aforesaid cases, and considering that the Will remains uncontested and has been duly proved during the trial, the Court holds that the petitioners are further exempted from furnishing any security bond.

13. Accordingly, subject to fulfilment of the remaining compliances, let the registry to issue the Probate along with the copy of the Will in favour of the petitioners.

14. With the aforesaid directions, the instant petition stands allowed. The

¹ AIR 1954 SC 280

² FAO (OS) 5/2022

³ 1989 (39) DLT 297



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application(s), if any, stands disposed of.

APRIL 24, 2025

Nc/sph

PURUSHAINdra KUMAR KAURAV, J

Click here to check corrigendum, if any