$~O-43

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

\+ TEST.CAS. 9/1999

ANIL SACHDEVA @ KITTY .....Petitioner

Through: Mr. Sankalp Goswami along with petitioner in person.

versus

STATE & ORS .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% 04.02.2025

1. This petition under Sections 275 and 276 of the Indian Succession Act, 1925 (*hereinafter 'the Succession Act'*) seeks for issuance of probate of the Will dated 13.04.1998, of late Shri Amrit Lal Sachdeva S/o late Shri Bhagwan Dass (*hereinafter referred to as the testator*), resident of 25/77, Punjabi Bagh, New Delhi. The Will stood registered on 13.04.1998 with the Sub-Registrar-II, Janak Puri, New Delhi.

2. The testator ascended to his heavenly abode on 27.01.1999 and his death certificate has been placed as Annexure 'A'. He left behind his legal heirs namely, the petitioner, who is the son of the testator, and brothers with respondents Nos. 2 and 3. Respondent No. 4 is the widow of the deceased and the mother of the contesting parties. She passed away on 25.06.2019, during the pendency of the present proceedings. Notably, respondent No. 2 is the State.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

3. Further, the petitioner, who is the son of the testator, is stated to have been appointed and constituted as the sole and alone executor of the said Will dated 13.04.1998 and has been exclusively bequeathed with full ownership rights for the entire movable assets, stock in trade, goodwill in the firm of M/s Sandeep Watch Company etc. It is the case of the petitioner that the testator executed the Will with a sound disposing mind and voluntarily, without any coercion.

4. Earlier the proceedings were contested by respondents nos. 2 and 3. Nevertheless, they subsequently refrained from raising any objections, a fact duly noted in the order dated 08.10.2024, which reads as under:-

> *"I.A. 41676/2024 (under Section 151 CPC filed by the respondent nos. 2 and 3 seeking condonation of delay)*
>
> *1. By way of the present application, the respondent nos. 2 & 3 are seeking condonation of delay in re-filing application i.e. I.A. 41675/2024.*
>
> *2. For the reasons mentioned in the application, the same is allowed.*
>
> *3. The application stands disposed of.*
>
> *LA. 41675/2024 (under Section 151 CPC Tiled bv the respondent nos. 2 and 3 seeking permission to withdraw the present TEST CASE)*
>
> *4. By way of the present application, the respondent nos. 2 & 3 seek to withdraw their objections filed vide diary no. 17916 under the cover of Index dated 23.07.2001. 5. The application is supported by the affidavits of respondent nos.2&3. That apart, the said respondents are present in Court and state that they wish to withdraw their objections. They further submit that they have no objection in case probate is granted by this Court in respect of the Will dated 13.04.1998 of late Amrit Lai Sachdeva propounded by the petitioner.*
>
> *6. In view of the above, the objections filed by the respondent nos.2 & 3 are dismissed as withdrawn.*
>
> *7. The application stands disposed of.*
>
> *TEST.CAS. 9/1999*
>
> *8. Since there is no contest in the present case, list the matter before the learned Joint Registrar for fixing the date for petitioner's evidence on 05.11.2024. 9. Next date already fixed i.e. 29.10.2024 stands cancelled.*"

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

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

6. The particulars of the suit properties are as under:-

> *"i.) Shops bearing Nos. 4258, 4260, 4261-B and 4262 in Main Bazar, Paharganj, New Delhi – 110055.*
>
> *ii) Stair-case, 5619 for second floor, at Basant Road, Paharganj, New Delhi – 110055. Eleven Rooms two common Bathrooms, One Toilet and Two attached Bathrooms and Toilet (i.e. entire second floor through the common stair-case of 5619 Basant Road, Paharganj, New Delhi-55. The passage on the first floor from the G.F. stairs and then leading to second floor (second floor exclusively).*
>
> *iii) Properties No. 5620, 5620-A, 5620-B, 5622 and 5622-A, at Basant Road, Paharganj, New Delhi-55.*
>
> *iv) A portion belonging to me in exclusive occupation of Amrit Lal at G. F. and 1st Floor, in property No. C-25/77, Punjabi Bagh, New Delhi (more particularly shown as RED in the site-plan annexed to this Will (as Annexure-A)*
>
> *v) One third (1/3) share of un-divided so far of properties bearing nos. 8 and 9/2, at Katra Habib, Main Bazar, Paharganj, New Delhi -110055."*

7. However, it should also be noted that certain properties, specifically 4261-B Main Bazar, Paharganj, New Delhi – 110055; Shop No. 5620-A, Basant Road, Paharganj, New Delhi-110055; and Shop No. 5620-B, Basant Road, Paharganj, New Delhi-110055, were divested during the lifetime of late Mr. Amrit Lal Sachdeva. Consequently, the probate is circumscribed to the remaining properties.

8. The petitioner has examined as many as five witnesses and has also produced on record and exhibited the following documents:-

(i) Ex.PWl/1 i.e. Original Death Certificate of Late Shri Amrit Lal (already exhibited as Ex.Pl).

(ii) Ex.PWl/2 i.e. Original Registered Will dated 13.04.1998.

(iii) Ex.PWl/3 i.e. Photocopy of Sale Deed dated 14.07.1998 (OSR).

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

(iv) Ex.PWl/4 i.e. Photocopy of registered General Power of Attorney dated 08.01.1999 (OSR).

(v) Ex.PWl/5 i.e. Photocopy of Sale Deed dated 14.01.1999 (OSR).

(vi) Ex.PWl/6 i.e. Photocopy of Sale Deed dated 14.01.1999 (OSR).

(vii) Ex.PWl/7 i.e. Copy of mutual agreement dated 19.05.1998 executed between Late Mr. Amrit Lai Sachdeva and Late Smt. Nirmal Kanta (OSR).

9. The evidence of Mr. Deepak Sethi, PW-2, affirmed that he was one of the attesting witnesses to the Will. He unequivocally testified that the Will dated 13.04.1998 was executed by the testator, Mr. Amrit Lal Sachdeva, who was of sound and disposing mind at the time of execution. Furthermore, Mr. Sethi stated that Mr. R.K. Dawar and Mr. O.P. Sethi were also present as attesting witnesses during the execution of the Will and all of them witnessed Mr. Amrit Lal Sachdeva while affixing his signatures on the said Will.

10. After Mr. Amrit Lal Sachdeva affixed his signature, all the witnesses, namely Mr. Deepak Sethi, Mr. R.K. Dawar, and Mr. O.P. Sethi, signed as attesting witnesses in the presence of the testator.

11. The Sub-Registrar-II, Basai Darapur, New Delhi was also summoned along with the original Register of the Sub-Registrar Office where Will dated 13.04.1998 was found to have been registered. The relevant record has been produced as Ex PW3/1. The details for the same are as below:-

> *"Registration No. 21036,*
> *Addl. Book No. 3.*
> *Volume No. 4143, on pages 129 to 136."*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

12. It is, thus, seen that in view of the aforesaid position, the Will dated 13.04.1998 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'*).

13. The suit properties which are forming part of the Will are self-acquired properties of the testator which was awarded in his favour *vide* Award dated 15.07.1988 by the Sole Arbitrator Mr. Tilak Raj. The said Award was made the rule of the Court by this Court on 14.09.1995.

14. Section 276 of the Indian Succession Act, 1925 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."*

15. In the case of ***Ishwardeo Narain Singh v. Kamta Devi***[1]**,** the Supreme

[1] AIR 1954 SC 280

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

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.

16. The requirements enumerated in ***Ishwardeo Narain Singh*** stand fulfilled in the present case as has been discussed in the foregoing paragraphs.

17. It is further imperative to observe that a sine qua non for the grant of probate is that the Will in question must constitute the ultimate testament of the testator. Pursuant to clause (b) of Section 276 of the Succession Act, the designation "last Will and testament" pertains to a document that remains extant postmortem, detailing the apportionment of immovable assets and the designation of beneficiaries.

18. On a brief scrutiny of the Will and the surrounding circumstances for its execution, there does not seem to be any other Will after the Will dated 13.04.1998. The same is, thus, found to be last Will and testament in terms of the requirement of Section 276 of the Indian Succession Act, 1925.

19. The death certificate, as has been noted hereinabove, is also not disputed. The factum of registration of the Will also stands satisfied.

20. The Court, thus, finds that the said Will is a legally executed

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03

document, and on the basis thereto, the petitioner is entitled to the probate of the Will dated 13.04.1998 executed by the testator, late Mr. Amrit Lal Sachdeva.

21. The petitioner is directed to file the requisite Court fee with the registry and in compliance with the said requirement, let the registry issue the probate along with the copy of the Will which was furnished to the Court. The petitioner is further exempted from furnishing any security bond.

22. With the aforesaid directions, the instant petition stands allowed. The application(s), if any, stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 4, 2025
aks/dp

Click here to check corrigendum, if any

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 24/10/2026 at 16:19:03