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

+ TEST.CAS. 99/2008

SHRI RAJINDER MOTWANI

.....Petitioner

Through: Mr. Divyakant Lahoti, Ms. Shreya Gokel, Advs. with Petitioner in-person.

versus

STATE AND OTHERS

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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12.05.2026

I.A.13084/2026 (under Section 151 CPC on behalf of petitioner/appellant for seeking directions)

1. The present application has been filed by the petitioner/applicant seeking following relief:

a. Take on record the e-court fee of Rs. 5,69,981/- (Rupees Five Lakhs Sixty Nine Thousand Nine Hundred Eighty One only) with serial Number DLCT1605D265220419 dated 16.04.2026 deposited by the Executor/Applicant in compliance with the Orders dated 31.01.2014 and 10.08.2016 in Test. Case No. 99/2008;

b. Direct issuance of Probate Certificate in favour of the Applicant in terms of Orders dated 31.01.2014 and 10.08.2016 in Test. Case No. 99/2008, and consequently pass appropriate order of discharging the Applicant/Executor;

2. Explaining the above prayer, Mr. Divyakant Lahoti, learned counsel appearing on behalf of applicant submits that essentially the plaintiff is seeking exemption from furnishing two sureties as demanded by the

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Registry of this Court *vide* letter dated 12.03.2026.

3. He submits that the captioned petition was filed by the petitioner/applicant seeking probate of the last Will and testament dated 29.08.1997 of his late father Sh. Pritam Dass. This Court *vide* judgment dated 31.01.2014 granted a probate in favour of the petitioner, who is also a named executor in the Will, subject to the petitioner depositing the requisite Court fee and on his furnishing the administration bond, for due administration of the estate of the deceased.

4. He submits that the said petition was contested by only one of the respondents namely, Virumal Motani i.e. respondent no.6. However, his objections were rejected by the Court while granting probate to the petitioner *vide* aforesaid judgment dated 31.01.2014.

5. The said objector i.e. Virumal Motwani, feeling aggrieved with the judgment of the learned single judge granting probate, preferred an appeal being FAO (OS) 182/2014 titled as ***Virumal Motwani vs. State and Ors.***, which also came to be dismissed by the Division Bench of this Court *vide* order dated 01.10.2014.

6. The challenge was thereafter, carried by Virumal Motwani to the Hon'ble Supreme Court by way of an SLP (C) 236/2015 titled ***Virumal Motwani vs. State through Secretary & Ors.***, which was also dismissed *vide* order dated 13.02.2015.

7. Attention of the Court has been invited to the order dated 01.10.2014 of the Division Bench, as well as, order of the Hon'ble Supreme Court, which have been filed by the petitioner/applicant under the cover of index dated 12.05.2026, *vide* diary no. E-213143/2026, the copy of which has been handed over in Court, the same is taken on record.

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8. Mr. Lahoti submits that the probate was granted as early as on 31.01.2014 and the said judgment had attained finality in the year 2015.

9. He submits that the petitioner/applicant has also administered the estate of the deceased and the same has been distributed amongst all the beneficiaries.

10. He further submits that under the Will there are only four beneficiaries viz. the petitioner and the respondent nos. 3 to 5, who are the real sisters of the petitioner. The respondent nos. 3 to 5 have also given their affidavits dated 05.05.2026 stating on oath that as per the probated Will they are satisfied with the due compliance of their father's last Will and are thereby discharging the executor of all his liabilities.

11. In the above backdrop, Mr. Lahoti urges that the petitioner/applicant be exempted from furnishing the surety.

12. Having heard Mr. Lahoti, this Court finds that the probate petition had attained finality in the year 2015. Further, all the beneficiaries under the Will, excluding the petitioner, viz. respondent nos. 3 to 5, who are the real sisters of the petitioner, have also given their affidavits to the effect that as per the probated Will they are satisfied with the due compliance of their father's last Will and are thereby discharging the executor of all his liabilities.

13. Further, insofar as administrative bond is concerned, the same has already been furnished by the applicant. Even the Court fee of Rs.5,69,981/- as demanded by the Registry vide its letter dated 12.03.2026 has been filed by the petitioner.

14. Section 291 of the Indian Succession Act, 1925 [hereinafter 'the Act'] provides that the District Judge may demand from the person to whom letter



of administration is granted, a bond with one or more sureties. The object of an administration bond with or without sureties is to secure the interest of the beneficiaries under the Will and to ensure due and proper administration of the estate belonging to the testator in which the executors/administrators have to discharge multifarious duties. As noted above, the petitioner has administered the estate of the deceased and the same has been distributed amongst all the beneficiaries, and all the beneficiaries under the Will have also given their affidavits expressing satisfaction regarding the due compliance of the Will.

15. In *Arvind Nanda vs. State* (2020:DHC:1457) the Court had considered the decision of 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.”*

16. Considering the facts and circumstances of the present case as noted above and the law expounded by this Court in *Arvind Nanda (supra)* the aforesaid decision, this Court is of the view that the petitioner is entitled to be exempted from furnishing the surety bonds. Order accordingly.

17. Consequently, the Registry is directed to issue the probate certificate to the petitioner, if all other requirements under the law stand satisfied.

18. The application is disposed of.

VIKAS MAHAJAN, J

MAY 12, 2026/N.S. ASWAL

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