

CIS CNR No.HPKA07000048
 CIS case Type : Succession Act
 CIS Case (Reg.No.) :1
 CIS Case year : 2018

**IN THE COURT OF SHEETAL SHARMA, SENIOR CIVIL
 JUDGE, DEHRA, DISTRICT KANGRA, H.P.**

Succession Act no. : 1/2018
 Date of Institution : 29.12.2017
 Date of Decision : 16.02.2021

In the matter of:

Arvind S/o Shri Ashok Raj S/o Kashmir Singh R/o Ward No.1,
 Mohal Rajgarh, P.O. and Tehsil Dehra, Distt. Kangra, H.P.

...Petitioner

-versus-

1. Smt. Bikrama Devi D/o	} Deceased Kashmir Singh
2. Smt. Pushpa Devi D/o	} S/o Bhagat Singh
3. Smt. Kamlesh Kumari D/o	} All R/o Ward No.1, Mohal
4. Smt. Sanjeevna Kumari D/o	} Rajgrsh, P.O. & Tehsil Dehra
5. Shri Ashok Raj S/o	} Distt. Kangra, H.P.

6. General Public

...Respondents

Petition u/s 372 of Indian Succession Act

Present:-

For the petitioner : Sh. Amit Rana, advocate

For respondents No.1 to 5 : Shri Varun Syal, Advocate

Respondent No.6 already ex-parte

ORDER

The petitioner have filed the instant petition under Section 372 of Indian Succession Act, for issuance of Succession certificate qua the estate of late Shri Suram Singh S/o Kashmir Singh S/o Bhagat Ram R/o Ward No.1, Mohal Rajgarh, P.O. and

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Tehsil Dehra, Distt. Kangra, H.P.

2. Briefly the case of the petitioner is that deceased Suram Singh S/o late Shri Kashmir Singh was married to one Smt. Kusum Lata who filed a petition No.HMA 9-G/III/2009 u/s 13(b)(i) of the Hindu Marriage Act for dissolution of marriage by mutual consent and the Hon'ble District Judge, Kangra at Dharamshala vide his decision dated 18.02.2000 allowed the petition and the marriage between them stands dissolved by a decree of divorce by mutual consent and as such his status remained as unmarried as the deceased Suram Singh never married thereafter till his death i.e. 3.8.2016. It is averred that following respondents No.1 to 5 are his natural heirs by way of relationship :

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|------------------------------|--------------------------------|
| 1. Smt. Bikrama Devi D/o | } Deceased Kashmir Singh |
| 2. Smt. Pushpa Devi D/o | } S/o Bhagat Singh |
| 3. Smt. Kamlesh Kumari D/o | } All R/o Ward No.1, Mohal |
| 4. Smt. Sanjeevna Kumari D/o | } Rajgrsh, P.O. & Tehsil Dehra |
| 5. Shri Ashok Raj S/o | } Distt. Kangra, H.P. |

That the deceased Suram Singh S/o Kashmir Singh have executed a valid and legal registered Will dated 2.6.2014 before the Sub Registrar, Dehra in favour of the present petitioner i.e. Arvind S/o Ashok Raj (real brother of deceased Suram Singh) regarding his entire movable and immovable property situated in Himachal Pradesh or any Murabba situated in Rajasthan or any other property and the petitioner is the only legal heir of deceased Suram Singh, to inherit the property. That the said Will dated 2.6.2014 has also been acted upon and implemented in the revenue records and a legal heir certificate dated 30.08.2016 is also issued by the Tehsildar, Dehra wherein and whereby he upheld that as per mutation No.856 and on the basis of registered Will of deceased Suram Singh his legal heir is only Arvind who is read nephew of the deceased. That deceased

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Suram Singh was working in the Police Department of the Himachal Pradesh and further his father Kashmir Singh was owner of land situated in Up Mohal Rajgarh which has been mutated in favour of petitioner Arvind vide mutation No.856. Shri Kashmir Singh s/o Bhagat Ram was also allotted Murabba No.35/17 in Chak No.27 B.D. dated 23.09.1973 but the same was cancelled on 7.2.1977 by the Govt. of Rajasthan, but thereafter late Shri Kashmir Singh died and his legal heirs i.e. respondents No.1 to 5 as well as late Shri Suram Singh applied for fresh Murabba by way of various applications and their case for the new allotment of Murabba in Rajasthan is being considered but in the meantime, Suram Singh died and the succession certificate for his inheritance is being demanded by the relevant authority of allotment. That since the petitioner is the legal heir of deceased as stated above and for such submissions, the petitioner have prayed that the Succession certificate be issued in her favour.

3. The respondent No.6/General Public was properly served, however, as none appeared from general public despite proper service, hence, respondent/general public was proceeded against ex-parte on 25.09.2018.

4. Respondents No.1 to 5 filed reply and admitted the case of petitioner and submitted that they have no objection if succession certificate is issued in favour of petitioner.

5. In order to prove the case, petitioner Ashok Raj entered the witness box as PW-2 and deposed on oath by way of his affidavit Ex.PW2/A that Shri Suram Singh expired on 3.8.2016 and his death certificate as Ex.PW1/G on record. That Shri Suram Singh during his life time executed a registered Will Ex.PW1/C on 2.6.2014 in his favour whereby Shri Suram Singh bequeathed his entire movable and immovable property

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alongwith Murabba at Rajasthan to him. That further the marriage of deceased Shri Suram Singh to Smt. Kusum Lata was dissolved by way of mutual consent and the decree is Ex.PW1/B on record. The petitioner has deposed further that hence after the death of Shri Suram Singh the petitioner, he is the only legal heir of deceased Suram Singh and is entitled to the entire property of deceased Suram Singh on the basis of Will Ex.PW1/C dated 2.6.2014. That the legal heir certificate Ex.PW1/D further in his favour and the mutation No.856 in the revenue record for the year 2014-15, Ex.PW1/E on the basis of registered Will Ex.PW1/C has also been entered. That during his life time Shri Suram Singh had applied for fresh Murabba by way of various applications and however he died during the consideration on the allotment of Murabba and now after his death, the concerned authorities have demanded the Succession Certificate from the petitioner to complete the process. The petitioner hence deposed that since he is the only legal heir of deceased Suram Singh, hence he may be granted the Succession certificate.

6. Petitioner has also examined Shri Yash Kumar as PW-3, who has deposed on oath by way of his affidavit Ex.PW3/A that he is working as Document Writer at Tehsil Dehra for the past 26 years and that on 2.6.2014 Shri Suram Singh had executed a Will in favour of the petitioner and that such Will Ex.PW1/C was written by him at the instance of deceased Shri Suram Singh and after writing the Will he had readover and explained the Will to Suram Singh in presence of Kultar Chand and Naresh Chauhan. That Suram Singh was identified by Lamberdar Shri Bhagwan Singh. He has deposed further that Suram Singh, the witness Kultar Chand and Naresh Chauhan and Bhagwan Singh Lamberdar had appended their signatures

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on the Will Ex.PW1/C in their respective position in his presence and thereafter the Will was presented before Sub Registrar, Dehra and Will was registered by the Sub Registrar, Dehra on 2.6.2014 in the presence of Suram Singh the witnesses Kultar Chand and Naresh Chauhan. That the Will Ex.PW1/C dated 2.6.2014 is the last testament of deceased Suram Singh.

7. Shri Kultar Chand has also entered the witness box as PW-1 and deposed on oath by way of his affidavit Ex.Pw1/A that deceased Suram Singh was well known to him and during his life time on 2.6.2014 he had executed a Will in favour of the petitioner in his presence. He has further supported the testimony of PW-3 that such Will was written by Yash Kumar at Dehra on 2.6.2014 at the instance of Suram Singh and in his presence. He has also supported the testimony of PW-3 that after reading the Will, the same was readover and explained to Suram Singh and that Suram Singh put his signature in his presence and in presence of witness Naresh Chauhan, after accepting the contents of the Will as correct. That Shri Suram Singh was identified by Bhagwan Singh Lamberdar and that after reading of Will, the same was presented by Suram Singh before Sub Registrar for the purpose of registration and that such Will was thereafter registered by the Sub Registrar in his presence and in the presence of other witnesses and Lamberdar Bhagwan Singh and that on the basis of such last Will of deceased Suram Singh, the petitioner Arvind is his sole legal heir and is entitled for the succession certificate in his favour.

8. I have carefully gone through the documents, as filed by the petitioner. The death certificate Ex.PW1/G proves on record that Shri Suram Singh R/o Rajgarh had expired on 3.08.2016. Ex.PW1/C the alleged Will of Shri Suram Singh has been duly proved on record by the petitioner, the Document

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Writer PW-3 Yash Kumar, witnesses Kultar Chand PW-1 and Naresh Chauhan, the Will Ex.PW1/C hence proves before the Court that Suram Singh during his life time bequeathed his entire movable and immovable property in favour of petitioner Shri Arvind. Such Will is a registered document and there is nothing on record to disprove the execution of the Will Ex.PW1/B. The judgment dated 10.02.2000 further proves that the marriage of Suram Singh with Kusum Lata was dissolved by the decree of the court on 18.02.2000. The legal heir certificate Ex.PW1/D further proves on record that after the death of Suram Singh, the petitioner succeeded Shri Suram Singh on the basis of the Will Ex.PW1/C. The mutation No.856 as on record on the revenue record for the year 2014-15 Ex.Pw1/E further proves that petitioner has succeeded to the entire movable and immovable property of Suram Singh on the basis of Will Ex.PW1/C. Hence in view of the evidence of the petitioner and his witnesses and documentary evidence as discussed hereinabove it is held that Shri Arvind is the sole legal heir of Shri Kashmir Singh after his death and hence the petitioner is hereby entitled for the grant of succession certificate in his favour.

9. Accordingly, the petition is allowed and the Succession certificate in respect of movable and immovable property of deceased Suram Singh situated at Mohal Rajgarh, Tehsil Dehra, Distt. Kangra is ordered to be issued in favour of the petitioner on the deposit of requisite fee and papers. The file, after due completion, be consigned to record room.

Announced and signed in the open Court this 16th day of February, 2021.

'mr'

(Sheetal Sharma)
 Senior Civil Judge, Dehra,
 District Kangra, H.P.

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List of witnesses

<u>Sr. No.</u>	<u>Name of witness</u>	<u>Whether witness of</u> Petitioner or of respondent
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PW-1 Kultar Chand	Petitioner
PW-2 Arvind	Petitioner
PW-3Yash Kumar	Petitioner

List of Exhibits

<u>Exhibit No./</u>	<u>Date of Exhibit</u>	<u>Description of exhibit/Mark</u>
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Ex.PW1/A	17.01.2020	Affidavit u/o 18 rule 4 cpc
Ex.PW2/A	17.01.2020	Affidavit u/o 18 rule 4 cpc
Ex.PW3/A	17.01.2020	Affidavit U/o 18 Rule 4 CPC
Ex.PW1/E	17.01.2020	Copy of jamabandi
Ex.PW1/D	"	Legal heirs certificate
Ex.PW1/B	"	Death certificate of Suram Singh
Ex.PW1/C	"	Copy of Will
Ex.PW1/B	"	Copy of judgment dated 18.2.2000
Ex.Pw1/F-1	"	Certificate of possession
Ex.Pw1/F	"	Allotment of land in Rajasthan

(Sheetal Sharma)
 Senior Civil Judge,
 Dehra, Distt. Kangra, H.P.