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

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Judgment Reserved on: 13.11.2025
Judgment pronounced on: 17.11.2025

+ **FAO 428/2010**

DEEPAK GUPTA

.....Appellant

Through: **Ms. Shweta Saini, Advocate**

Versus

RAJEEV AGARWAL & ANR

.....Respondents

Through: **None.**

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present appeal has been filed under Section 299 of the Indian Succession Act, 1925 (the Act), against Annexure A-1, i.e., judgment dated 13.08.2010 in Probate Case No. 152/2008, whereby probate of the Will dated 09.03.2006 has been granted in favour of respondent no. 1/ the petitioner, who claimed that the will had been executed by the testator in a sound disposing state of



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mind.

2. Brief facts germane to the adjudication of this appeal are as follows:- The dispute concerns the estate of late Krishana Nandan Gupta (the testator), who passed away on 25.04.2008. During his lifetime, he acquired property bearing no.WZ-125, Gali No. 7, Jail Road, Shiv Nagar, Delhi, and executed a registered Will dated 09.03.2006 relating to the property. The wife of the testator predeceased him on 18.11.2005, and he was survived by three sons, who are the parties in this case.

2.1. A petition under Section 276 of the Act was filed by the respondent no. 1/petitioner, being a beneficiary in the Will, for the grant of probate/letter of administration in respect of the estate left by the testator, stating that by virtue of the said Will, the testator had bequeathed the entire ground floor of the property to him.

2.2. The appellant/objector filed objections, alleging that the



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Will dated 09.03.2006 was forged, tampered with at various pages after it had been registered, and that respondent no.1/petitioner had concealed material facts. It was contended that when he obtained a certified copy of the Will from the office of the Sub-registrar, it was found different from the Will produced before the Court. It was contended that respondent no.1/petitioner could not seek probate since he had not been named executor in the Will.

2.3. Based on the pleadings, the trial court framed the following issues on 09.02.2009:-

“ (a) Whether the Will dated 09.03.2006 as propounded by the petitioner was validly executed by the deceased Krishana Nandan Gupta in his sound disposing mind and the same is his last Will and testament?

(b) Relief.”

2.4. The parties went to trial on the aforesaid pleadings. On behalf of the petitioner, PW1 to 3 were examined. The objector



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examined himself as RW1. The original will was marked A, and the certified copy as B.

2.5. On a consideration of the oral and documentary evidence and after hearing both sides, the trial court held that the Will, though containing minor post-registration alterations, remained valid, as the changes were signed by the testator. The alterations were merely clarification regarding the custody of the ground-floor property documents. The Will was duly proved by respondent no. 1/petitioner by examining the attesting witness (PW-2), and the registering officer (PW-3). The testator's soundness of mind was also proved by the evidence on record. It was further found that the absence of an appointed executor did not prevent the beneficiary (respondent no. 1/petitioner) from seeking probate. Accordingly, probate was granted, and a letter of administration was ordered upon payment of stamp duty and execution of required bonds.



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Aggrieved, the appellant/objector has filed the present appeal.

3. The learned counsel for the appellant submitted that the document sought to be probated by respondent no. 1/petitioner was an altered Will (Mark A), which differed from the certified copy of the registered instrument dated 09.03.2006 (Mark B). It was argued that the surrounding circumstances regarding the preparation and execution of the Will were suspicious and inadequately examined. Moreover, it was contended that probate could not be granted for the altered Will because such alterations are contrary to the provisions of the Act.

3.1. It was submitted that PW-2, the attesting witness, has categorically stated that no corrections had been made to the Will in his presence, thereby undermining the genuineness of the altered document propounded for probate. Reference was made to Section 71 of the Act, and it was submitted that, as it is clear that



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alterations had been made and so the trial court ought not to have granted probate.

4. Heard the learned counsel for the appellant. There was no representation for the respondent.

5. A perusal of Mark A and Mark B shows that in Mark A, there is, infact, an alteration. However, modification/addition only clarifies that the original documents of the ground floor property would remain in the custody of respondent no. 1/petitioner instead of the appellant/objector. The handwritten addition also bears the signature of the testator alongside it. The alleged discrepancies between the original and the certified copy, particularly the minor handwritten additions such as the words “ground floor”, does not in any way affect the validity of the Will. These corrections are marginal in nature, duly signed, and do not alter the testator’s intent. Hence, no suspicious circumstances surround these



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modifications. It is evident that the testator intended to bequeath the ground floor of the property to respondent no. 1/petitioner, and the modifications or additions do not detract that intention. Moreover, the additions are duly signed by the testator, which further supports their genuineness.

6. Before the trial court, the respondent no. 1/petitioner adduced evidence to establish the authenticity and validity of the Will. The execution of the Will is supported by the testimony of Mukul Jain (PW-2), an attesting witness. According to PW-2, the testator called him on 09.03.2006 to witness the execution of the Will. PW-2 deposed that the testator was of sound mind and in good health at the time of the execution and that the Will was signed in his presence as well as the presence of the other attesting witness. The testimony of PW-2 that he does not know the person who drafted the Will does not cast doubt on its validity, as he



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confirmed the two crucial legal requirements: (i) that the testator was of sound disposing mind, and (ii) that the execution was voluntary. This testimony directly supports the due execution of the Will.

7. The registration of the Will was further confirmed by Shri Chitranjan (PW-3), an official from the office of the Sub-Registrar. His testimony establishes that the Will was duly registered in accordance with statutory requirements, thereby lending additional credibility to its authenticity.

8. The contention of the appellant/objector that the Will is forged and fabricated is wholly unsubstantiated. No evidence has been adduced by the appellant to support the claim of forgery or to show a contrary intention of the testator or that the testator was not in sound mind or that the signing was involuntary. On the other hand, the evidence led by the respondent no. 1/petitioner strongly



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upholds the Will's genuineness and proper execution.

9. In view of the foregoing discussion, I find no infirmity, illegality, or perversity in the impugned judgment granting probate of the Will dated 09.03.2006 in favour of respondent no. 1/petitioner. The trial court's findings are based on a correct appreciation of the evidence and proper application of the law.

10. The appeal, *sans* merit, is dismissed. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

NOVEMBER 17, 2025

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