

# Dr. Rajiv Kumar Gupta & Ors vs State Of Nct Of Delhi on 7 August, 2020

**Author: Mukta Gupta**

**Bench: Mukta Gupta**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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TEST CAS.7/2019

DR. RAJIV KUMAR GUPTA & ORS.

.....Petitioners

Represented by: Mr.Yash Mishra, Ms.Nidhi Jaswal

and Mr.Pronoy Chatterjee, Advocate.

versus

STATE OF NCT OF DELHI

..... Respondent

Represented by:

Ms.Shefali Vohra, Advocates for

GNCTD.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% 07.08.2020 The hearing has been conducted through Video Conferencing. I.A. 4756/2020 (under Section 151 CPC-reduction in court fees and exemption from filing personal surety)

1. Revised report of calculation of the court fee dated 30th July 2020 has been received from the Registry which reads as under:

"Test Cas. 7/2019 N.D.O.H. : 07.08.2020 Reference order dated 24.06.2020 and 14.07.2020, Hon'ble Court has directed the Registry to look into the calculation and submit a report as to the calculation of the Court Fee.

In this connection, it is submitted that vide order dated 06.09.2020, the Letters of Administration with respect of Will dated 31.08.2019 read with codicil dated 26th August 2018 of Ms. Daya Gupta, has been granted to the petitioners in respect of the estate of the deceased.

IMMOVABLE PROPERTIES:

1. Residential Plot (559sq. mtrs) in City Aligarh, distt.

Aligarh, U.P. (as per para 9 of order dated 06.09.2019, valuation report has been filed by the Sub District Magistrate, Kol, Aligarh whereby the cost of the said property was valued to be around Rs.36,27,000/-)

2. DDA Freehold Flat at D-3/3185, Vasant Kunj, New Delhi, (as per para 7 of the order dated, valuation report has been filed by the Tehslidar, Mehrauli whereby the cost of the said property was valued to be around Rs.55,37,664/-)

3. One Half undivided share in Freehold plot (392 sq. mtrs) at South Extension, New Delhi, (as per para 8 of the order dated 06.09.2019, property bearing K-1, South Extension Part-I, New Delhi has been filed by the Assistant Collector GR-II, Sub- Division (Defence Colony), District South-East, New Delhi whereby the said property was valued to be around Rs.8,04,59,359/-. Since the testators share in the said property is one half undivided share hence the valuation of the said property comes to Rs.4,02,29,679.50p) MOVABLE PROPERTIES:

1. JEWELLERY A. Diamond set 14 tolas gold (13.20 carats diamonds) with necklace, jhumkis, kangans and ring. (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required) B. Emeralds set with pearl 15 tolas gold (through the codicil dated 26.08.2018, the said jewellery have already been utilized by the petitioner no. 2 for the marriage of her two daughters, hence no valuation is required) C. Ruby set 12 tolas gold (the said jewellery has already been handed over to the beneficiary, hence no valuation is required) D. Gold kardhani (72 tolas gold) (through the Codicil dated 26.08.2018, the said Jewellery has been handed over to Namrata Gupta, petitioner no. 4, hence no valuation is required) E. Gold set with Rani Har (55 tolas gold) (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required) F. 8 Gold Kangans (32 tolas gold) (Through the codicil dated 26.08.2018, the said Jewelleries have already been handed over to the beneficiary, hence no valuation is required) G. Matar Mala (22 tolas gold) (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required) H. Pair of Gold Payals (12 tolas gold) (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required) I. Gold set small (32 tolas gold) (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required) J. Kundan set (28 tolas gold) (Through the codicil dated 26.08.2018, the said jewelleries have already been handed over to the beneficiary, hence no valuation is required)

2. Balance in Savings Accounts No. 16431, Bank of India, Malai Mandir, New Delhi, (as per affidavit of petitioner No. 3 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 3 states that she was the nominee/ Joint Account holder with the testatrix in the mentioned account no. and the nomination was affected as per the Will dated 31.08.2010 registered on 03.09.2010 read with its Codicil dated 26.08.2018, which as on 18.01.2019 has a balance of Rs.12,97,132.97/-. She further state that she is able to operated the above-said Account as she is the Joint Account Holder in respect of Bank Account in question. Account excluded)

3. Balance in Savings Bank Account No. 4136, Central Bank of India, Jalaun, U.P. (as per affidavit of petitioner No. 1 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 1 states that he was the nominee/ Joint Account holder with the testatrix in the said bank account and the nomination was affected as per the Will dated 31.08.2010 registered on 03.09.2010 read with its Codicil dated 26.08.2018, which as on 18.01.2019 is a redundant account with a balance Rs.0,00. Account Excluded)

4. Pension Account No. 1065 at Jalaun, U.P. (as per affidavit of petitioner No. 1 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 1 states that the said Pension Account has a balance of Rs.15,00,000/- and is no more in existence as the same has already been used/exhausted by the son of the Petitioner No. 1 towards his education as the same was an advice by the testatrix in her Will dated 31.08.2010 registered on 03.09.2010 read with its Codicil dated 26.08.2018. Account Excluded)

5. RBI Bonds worth Rs.10 Lacs (through Codicil dated 26.08.2018, the said financial instrument is no more in existence, hence no valuation is required).

6. Senior Citizen's deposit worth Rs. 15 Lacs at Post Office, Sector-8, R.K. Puram, New Delhi.

7. Kisan Vikas Patras and National Savings certificates worth around 11.50 lacs. (through Codicil dated 26.08.2018, the said financial instrument is no more in existence, hence no valuation is required) 8 The Codicil dated 26.08.2018 has further added to the Will dated 31.08.2018 that the credit Balance in the

(a) Allahabad Bank Savings Bank Account No. 50411507557 at Jalaun, U.P. (as per affidavit of petitioner No. 1 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 1 states that the balance of the said bank account as on 18.01.2019 is Rs.3,27,421/-. A duly certified Balance statement as on 18.01.2019 issued by Allahabad Bank, Jalaun dated 03.01.2020 is enclosed alongwith the said affidavit)

(b) State Bank of India, Savings Account No. 10679187232 at Jalaun, U.P., (as per affidavit of petitioner No. 1 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 1 states that the balance of the total of all the STDR (Special Term Deposits) in the said bank account as on 18.01.2019 is Rs.2,56,749/-. A duly certified Balance statement as on 18.01.2019 issued by State Bank of India, Jalaun, U.P. dated 03.01.2020 is enclosed alongwith the said affidavit)

(c) Post Office Savings Account No. 8138197207 at Jalaun, shall be inherited by Petitioner No. 1. (as per affidavit of petitioner No. 1 filed vide dairy no.224217 dated 12.02.2020, petitioner no. 1 states that the balance at the said post office account as on 18.01.2019 is Rs.7,47,410/-. A duly certified Balance statement as on 18.01.2019 issued by Post Office Savings Account, Jalaun, U.P. dated 03.01.2020 is enclosed alongwith the said affidavit) Administration and Surety Bond has not furnished by the petitioners.

In view of the above, it is submitted that the Total valuations of the aforesaid Moveable and I m m o v e a b l e P r o p e r t i e s c o m e s t o R s . 5 , 2 2 , 2 5 , 9 2 3 . 5 0 p (i.e.36,27,000+5537664+40229679.50+15,00,000+327421+25 6749+747410). E-Court Fees as provided in Schedule-I Article 11 of the Court Fee amounting to Rs.20,89,036.94p which is 4% of Rs.5,22,25,923.50p has been accordingly assessed, to issue Letters of Administration.

Report is accordingly submitted.

Sd/- 30/07/2020 Court Master"

2. Registry will explain as to why the court fee is still assessed at 4% instead of 3% despite this Court having struck down the validity of the Court Fees (Delhi) Amendment Act, 2012 brought by the Delhi Legislative Assembly in the decision reported as 203 (2013) DLT 129 Delhi High Court Bar Association & Ors. vs. Govt. Of NCT of Delhi & Ors. On a challenge before the Hon'ble Supreme Court, no stay has been granted.

3. Awaiting the report from the Registry, list on 24th August, 2020.

4. Registry will also serve its report to learned counsel for the petitioner.

5. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

AUGUST 07, 2020 'vn'