

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

+ **FAO No. 184/2017**

% **24th April, 2017**

RAMPALI Appellant
Through: Mr. Kartar Singh, Advocate
with appellant in person.

versus

THE STATE GOVT. OF NCT OF DELHI & ORS. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this first appeal the appellant impugns the order of the trial court dated 18.1.2017 dismissing her application for revocation of the succession certificate. The succession certificate was granted to Smt. Sonia Yadav and Sh. Bhim Singh, respondent nos. 2 and 3 in this appeal, and who are the daughter and husband of the deceased Smt. Kamla Devi. Respondent nos. 2 and 3, Smt. Sonia Yadav and Sh. Bhim Singh were granted the succession certificate on account of they being the daughter and husband of late Smt. Kamla Devi who died on 25.4.2015, and hence the legal heirs of Smt. Kamla Devi under the Hindu Succession Act, 1956. Appellant applied for revocation of the

succession certificate granted on the ground that Smt. Kamla Devi did not reside with the petitioners of the succession certificate case, respondent nos. 2 and 3 herein, for around 35 years and that there is nomination in favour of the present appellant in the government records. Accordingly, the appellant prayed for revocation of the succession certificate on the ground of the appellant being the nominee in the government records as late Smt. Kamla Devi was a government employee.

2. The court below has dismissed the petition for revocation of succession certificate granted on the ground that under the Hindu Succession Act, respondent nos. 2 and 3 herein, petitioners in the succession certificate case were the legal heirs. This conclusion is correct in view of Section 15(1)(a) of the Hindu Succession Act.

3. The court below has further held that nomination will not make the nominee as the owner of the property. I also agree with this conclusion of the court below that nomination is not a Will in law inasmuch as this is the settled legal position in terms of the judgment of the Supreme Court in the case of *Smt. Sarbati Devi and Another Vs. Smt. Usha Devi AIR 1984 SC 346*.

4. The present case is indeed a hard case because the petitioners of the succession certificate case are walking away with the

property of the deceased Smt. Kamla Devi although Smt. Kamla Devi had separated from the petitioners of the succession certificate case before 35 years prior to the death of Smt. Kamla Devi, however, in the view of the settled legal position that nomination is not a Will, and in the absence of the any Will of Smt. Kamla Devi in favour of the present appellant who is the real sister of the deceased Smt. Kamla Devi, only those persons who are legal heirs under the Hindu Succession Act inherit the properties, accordingly this Court has no option but to dismiss the present appeal.

5. The appeal is accordingly dismissed, leaving the parties to bear their own costs.

APRIL 24, 2017/ib

VALMIKI J. MEHTA, J