

INDIAN SUCCESSION ACT

i) Indian Succession Act, 1925 – Section 63 – Evidence Act, 1872 – Section 65,68 – Suit for possession and mense profits on basis of Will executed by testator – Delay in filing suit properly explained – Will not forged or fabricated and not surrounded by any suspicious circumstances – Appellants have examined both attesting witness to Will – PWs 1 and 2 were known to executor and in clear words deposed that he knew executor and parties in suit for numbers of years – They signed in presence of each other – PWs1 and 2 were also witnesses to registration of Will – Law does not require that Will should be read over to attesting witnesses – Both the appellants were given equal share in money lying in bank accounts held by executor jointly with PP – Both appellants were to share equally any movable or immovable Property which executor might have acquired after his death – Assessment of age given by witnesses for appellants for alleged discrepancies cannot be considered as suspicious circumstance – Registered Will is a strong factor to discard suspicious circumstances as alleged by respondents – No evidence adduced by respondents that Will was signed by appellants by coercion, misrepresentation, etc. from testator – No evidence led by appellants to support their claim for damages @ Rs. 3,000/- p.m. – Appellants not entitled to any damages as claimed – Judgement and decree of Single Judge set aside – Decree of possession in respect of property in question passed in favour of appellants and against respondents.

ii) Indian Succession Act, 1925 – Section 63 – Evidence Act, 1872 – Section 65, 68 – Will – Execution of – Compliance of statutory requirements though itself may not be sufficient but they do postulate or propound in favour of the execution of the Will by a testator.

iii) Succession – Will – In Delhi to enforce Will probate is not required to be obtained.

Citation :- Capt.(Retd.)O.P.Sharma & Anr vs. Kamla Sharma & Ors. RFA (OS) No. 10 /2000