

12.06.2020ORDER

1. Vide this order, the undersigned shall decide whether this Court has jurisdiction to decide the present petition or not.

2. In the present petition, the ordinary place of residence of the deceased is stated to be at B-140, Moti Bagh-I, New Delhi -110021. During course of arguments on the point of jurisdiction it has been stated by the Ld. Counsel for the petitioner on 06.02.2020 that deceased was ordinarily a resident at Moti Bagh-I, New Delhi-21. However, it is claimed that the service dues for which succession certificate has been sought are lying within the jurisdiction of this court, hence, this court has jurisdiction to grant succession certificate in favour of the petitioner.

3. The undersigned has considered the arguments advanced by the Ld. Counsel for the petitioner and perused the entire record perused. In support of his contention, Ld. Counsel for the petitioner has filed and relied upon two judgments in a case titled as "*K.L.S. Bhagat Vs. The State & Ors.*" decided by the Hon'ble High Court of Delhi on 24.01.2000 having FAO No. 149/1993 & "*Sona Devi Vs. The Estate of Late Ajay Kumar*", decided by the Hon'ble High Court of Patna on 27.01.2010. The undersigned has gone through the aforesaid judgments and also the judgment sent by the Ld. Counsel to the Reader of the Court yesterday through whatsapp in case titled as "*P.J.Pothen v. Sanghamitra (CGHS) Society*" by Delhi HC., however, the facts and circumstances of the said judgments are totally different from the case in hand, as the

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petitioner has nowhere pleaded that the deceased had no fixed place of her residence. The case of the petitioner is solely based on the fact that the deceased was ordinarily a resident of B-140, Moti Bagh-I, Delhi and died also there. Therefore, the aforesaid case laws are not applicable to the present case, hence of no avail to the petitioner.

4. Section 371 of Indian Succession Act provides the Court having jurisdiction to grant certificate. For the sake of benefits, the section is reproduced here :-

***“371. Court having jurisdiction to grant certificate – The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part”.***


5. In the case of Rameshwari Devi Vs. Raj Bali Shah, AIR 1983 All. 68 (also referred in the case laws filed & relied by the Ld. Counsel for the petitioner), it was held that “ *In the ordinary circumstances the jurisdiction falls within which the deceased was ordinarily resided at the time of his death. If at that time. he had no fixed place of abode then the jurisdiction would fall within which the property is situated. The second branch would not be attracted until and unless the first branch is exhausted. The second branch is an alternative provision which is attracted only in those cases in which the deceased at the time of his death had no fixed place of residence.*”

*[Handwritten signature]*  
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6. In view of the aforesaid discussion while relying upon the above judgment, in considered opinion of the Court, this court does not have territorial jurisdiction to entertain the present petition as deceased was ordinarily a resident of Moti Bagh, Delhi which is not within the jurisdiction of Central District. Consequently, petition be returned to the petitioner as per rules to be filed before the Court having jurisdiction, after cancellation of endorsement and copy of the same be kept on record.

File be consigned to Record Room.

Announced through  
Video conferencing on 12.06.2020

  
(Shefal Barnala Tandon)  
ACJ/ARC (Central)  
Delhi/12.06.2020