

16.11.2022

ORDER

1. Submissions were heard on the application under Order 7 Rule 14 r/w section 151 CPC dated 17.01.2022 filed by petitioner praying for placing on record three documents which are Annexure 'A-3' Annexure 'A-6' & Annexure 'A-7'.
2. Ld. Counsel for respondents no.2&3 has straightaway argued on the application without filing reply thereto and has opposed the same, referring to the objections / reply filed to the main petition. It is argued that the petition is filed on the strength of forged documents and concealment of one document i.e. Will dated 06.03.2009 by petitioner. Ld. Counsel has also referred to one FIR No.219/17 registered against the petitioner and alleged witnesses of Will at PS Subzi Mandi. Besides one more FIR No.475/2017, U/s 420/467/468/471/120-B IPC at PS Vivek Vihar is registered against petitioner and others as petitioner has fabricated and used the forged Will of late Sh. Rameshwar Dass Gupta before Hon'ble Delhi High Court in case CS No.397/2016 titled Mahendra Gupta v. Narendra Gupta and others, which is now pending before Ld. ADJ, Tis Hazari Courts.
3. Ld. Counsel for Petitioner has stated that due to inadvertence, these documents could not be filed on record alongwith list of documents and the said inadvertent mistake was *bonafide* on part of petitioner. It is submitted that the documents are well in the knowledge of

respondents as these are part of another probate petition bearing no.41/17 pending between same parties before the Court of ADJ-02, Shahdara, wherein respondents have accepted the knowledge of these documents.

4. Ld. Counsel for respondents argues that the application does not mention any explanation much less plausible one as to why these were not filed alongwith petition. It is argued that the petition is itself an outcome of one criminal case registered against petitioner vide FIR No.19/17 at PS Subzi Mandi and just to escape the rigors of criminal law, petitioner has prepared these fabricated documents and present petition based upon such forged and fabricated documents.
5. Perusal of record would indicate that the petitioner has not filed rejoinder to the reply of respondents. Respondents have alleged the concealment of material facts by petitioner since the earlier Will dated 06.03.2009 is deliberately not filed by petitioner with documents. My attention is drawn to the order of Ld. ADJ-01, KKD passed in PC No.41/17 filed by petitioner and which shows that petitioner has not placed on record the alleged Will. I observe that the instant matter is still at the initial stage where the same is pending for admission/denial of documents and for settlement of issues. As such, the evidence of parties is yet to commence. Reliance can be placed on judgment titled as **Kapil Kumar Sharma Vs. Lalit Kumar Sharma & Anr. (decided on 09.04.2009 by Hon'ble Apex Court)**. Reliance can also be placed on judgment of Apex Court in **Braham Dass Vs Onkar Chand and another, 2009 (1) Shim. LC 339** wherein it was observed that whether the documents are relevant

or not cannot be decided at the stage of considering the application under Order 7 Rule 14 of CPC and this question is to be determined at the stage of arguments. It was further observed that the court's endeavour must be to adjudicate the *lis* effectively and unless serious prejudice is caused to the other side, the same must be permitted to be produced on record.

6. Considering the reason that the matter is at initial stage and the other side is in knowledge of these documents, I hereby allow the application of the petitioner subject however to cost of Rs.10,000/- to be paid to the other side **within four weeks**.
7. The application stands disposed off. The documents Annexure 'A-3' Annexure 'A-6' & Annexure 'A-7' as mentioned in para 2 of the application are taken on record.
8. Petitioner is directed to file rejoinder to the reply of respondents no.2&3 to petition within six weeks on record.

List the matter for appearance of both sides for examination under Order 10 CPC/production of original documents by both sides for admission/denial of documents and for consideration in view of the objections of respondents no.2&3 to the petition, on **28.03.2023**.

Shortest possible date is given considering the pendency as well as regular cause list. There is pendency of about 2300 cases which includes about 400 more than five year old cases in this court.

(Ravinder Bedi)
Add District Judge-02/Shahdara
KKD Courts, Delhi: 16.11.2022