

03.12.2018

Present: Sh. Ram Naresh Mishra, proxy counsel for Sh. Harpit Singh Bawa, counsel for the petitioner
Sh. Abhishek Singh, counsel for respondent no. 6, 8 & 9.
(None for other respondents)

There is request for adjournment for filing of replication.

I have seen the previous orders. It will not be possible to adjourn the matter, in view of the previous orders. However, the petitioner would be at liberty to file replication, if any within one week from today, with advance copy to opposite counsel.

Ld. Counsel for respondents no. 6, 8 & 9 does admit that the deceased had left behind a registered Will but according to him, the certified copy which has been placed on record by the petitioner is not the genuine certified copy and has been forged. He does not dispute that deceased S. Rakha Singh had executed a Will dated 09.11.1990. However, he states that the original record got destroyed in a fire and therefore, there was no occasion for the petitioner to obtain its certified copy subsequent to fire.

Sh. Abhishek Singh, Ld. Counsel has also stated that in connected matter pending in the Court of Sh. Deepak Dabas, Ld. ADJ-05 (West), defendant no.1 i.e. Gurcharan Singh was not appearing and therefore, Ld. Court has directed that such Gurcharan Singh, who happens to be the petitioner in the present case, be served through this Court. He has shown me the copy of order dated 10.10.2018 as well as subsequent order dated 14.11.2018. As per the order, the defendant no.1

has been directed to be served through this Court through his counsel or AR, if any.

Sh. Mishra, however, states that he has no instructions in this regard and he is only proxy counsel and therefore, it will not be possible for him to accept the process. He has thus, point blank, refused to accept the process. Therefore, the process is returned to Sh. Abhishek Singh, as it is. He may be given dasti copy of this order for his record and use.

No further documents have been filed by either of the side. I have gone through the pleadings and documents placed on record.

On the basis of pleadings, the following issues are framed:-

- 1. Whether the Will dated 09.11.1990 executed by late S. Rakha Singh S/o late S. Kishan Singh, relied upon by the petitioner is his last genuine, legal, valid Will and duly executed in his sound disposing mind? OPP**
- 2. Whether the Will dated 09.11.1990 executed by late S. Rakha Singh S/o late S. Kishan Singh, as relied upon by petitioner and the certified copy of which has been placed on record by the petitioner is the correct and genuine certified copy of such Will dated 09.11.1990 ? Onus on Parties**
- 3. Whether the petitioner is entitled for Probate/Letter of Administration on the basis of the aforesaid Will, as claimed? OPP**
- 4. Whether the petition is liable to be dismissed for the objections raised by the respondents / objectors no.6, 8 & 9 in the written objections. OPR**

5. Whether the present petition is barred by limitation? OPR

6. Relief

No other issue arises or pressed.

Petitioner is directed to file list of witnesses and affidavit of all witnesses on or before the next date.

Put up on 31.01.2019 for PE.

(Manoj Jain)
ADJ-02, West/Delhi
03.12.2018