



\$~

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

+ **TEST.CAS. 8/2018**

MUKESH GUPTA

..... Petitioner

Through: Ms. Suruchi Mittal & Mr. Abhishek
Gautam, Advs.

Versus

GOVT. OF N.C.T. OF DELHI & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

01.02.2018

IA No.1511/2018 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is allowed.

TEST.CAS. 8/2018

3. The petition seeks Letters of Administration with copy of the Will attached with respect to the document dated 19th November, 2009 stated to be the validly executed last Will of the father of the petitioner and the respondents no.2 to 4 viz. Sh. Dhanesh Kumar Gupta, Smt. Rupa Gupta and Smt. Deep Jain.

4. The petitioner, in para no.12 of the petition has pleaded that the respondent no.2 Sh. Dhanesh Kumar Gupta, immediately after the demise of the father, has filed CS(OS) No.4071/2014 *inter alia* for partition of the property on the basis of an earlier Will of the year 2005 of the father and disputing that the document dated 19th November, 2009 of which Letters of Administration is sought by the petitioner is the validly executed last Will of the father.



5. From the pleadings of the said suit, it appears that the document dated 19th November, 2009 of which Letters of Administration with copy of the Will annexed is sought in this petition, is very much in issue in the said suit.
6. I have thus enquired from the counsel for the petitioner, the reason for filing this petition. It appears that once this petition is entertained, the same will have to be clubbed with CS(OS) No.4071/2014, offsetting the three years march the proceeding in the said suit has and delaying the disposal of that suit as well.
7. The petitioner claims to have become exclusive owner of the property under the document dated 19th November, 2009. As per the averments in the petition as well as in the suit aforesaid, the respondent no.2 Sh. Danesh Kumar Gupta is also in possession of the property subject matter of the Will claimed.
8. From the act of the petitioner filing this petition, it appears that the petitioner is not interested in early resolution of the dispute and wants to delay the disposal of the suit as well.
9. The counsel for the petitioner, upon being put the aforesaid, states that this petition has been filed because there is a judgment of this Court, which she has not brought, to the effect that a Will can be proved only in a Testamentary Case and not in a suit.
10. I am not aware of any such legal proposition.
11. List on 12th February, 2018.

RAJIV SAHAI ENDLAW, J

FEBRUARY 01, 2018

‘gsr’..

TEST.CAS. 8/2018

Page 2 of 2