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

+ **TEST.CAS. 8/2018 & I.A.11063/2018**

**SH. MUKESH GUPTA** ..... Petitioner

Through: Ms.Suruchi Mittal, Advocate

versus

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

Through: Mr.Varun Kumar Tikmani, Advocate  
for R-1

Mr.Dhruva Bhagat and Mrs.Ashna  
Bhagat, Advocates for R-2

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**ORDER**

% **11.10.2018**

**TEST.CAS. 8/2018**

1. Issue notice. Learned counsels for respondent Nos.1 and 2 accept notice. Notice to other respondents be issued by ordinary mode as well as registered A.D. post returnable on 22<sup>nd</sup> January, 2019 before the Joint Registrar.
2. The written statement along with documents and affidavit of admission/denial of the petitioner's documents be filed by respondent No.2 within thirty days. Written statement along with documents and affidavit of admission/denial of the petitioner's documents by other respondents be filed within thirty days of the service of notice. Replication along with admission/denial of the respondents' documents be filed within thirty days thereafter.
3. Notice be also issued to SDM concerned for valuation of the suit property. Learned counsel for respondent No.1 accepts notice on behalf of SDM. The SDM shall value the suit property and submit the valuation report within eight weeks.
4. The citation be published in 'Statesman' English Edition and 'Amar



Ujala' Hindi Edition.

**I.A. 11063/2018**

5. Issue notice to respondent No.2. Learned counsel for respondent No.2 accepts notice and submits that he has filed CS(OS) 4071/2014 for partition of the suit property in which the petitioner has set up a Will dated 19<sup>th</sup> November, 2009 and an issue with respect to the validity of the said Will has already been framed.
6. Learned counsels for the petitioner and respondent No.2 agree that the evidence to be recorded in CS(OS) 4071/2014 shall be read as evidence in this petition. Learned counsels further agree that finding of the Court on the validity of the Will dated 19<sup>th</sup> November, 2009 in CS(OS) 4071/2014 shall be treated as finding in these proceedings and the parties agree not to re-agitate the said finding in this petition, meaning thereby if the petitioner's issue relate to the validity of the Will dated 19<sup>th</sup> November, 2009 is decided in favour of the petitioner, she will be entitled to the probate in these proceedings. On the other hand, if the petitioner fails in proving the Will dated 19<sup>th</sup> November, 2009 in CS(OS) 4071/2014, she will not press those findings in this suit. It is agreed that after framing of issues, this petition shall be adjourned *sine die* to await the outcome of CS(OS) 4071/2014.
7. In view of the statement made by learned counsel for both the parties, the consolidation of this petition with CS(OS) 4071/2014 is not warranted.
8. The application is disposed of in above terms.
9. It is clarified that the parties shall not seek an adjournment in CS(OS) 4071/2014 on the ground of pendency of TEST.CAS. 8/2018.
10. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

**J.R. MIDHA, J.**

**OCTOBER 11, 2018/ds**