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

+ CS(OS) 42/2024

M/S KAUSHALYA PREM BHATIA TRUST AND ORS

..... Plaintiffs

Through: Mr. Manu Nayyar, Mr. Dhruv Chawla
and Ms. Yuganshi Singh, Advocates.

versus

RAJINDER MEHTO

..... Defendant

Through: Mr. Prakash Kumar and Ms. Jasleen
Kaur, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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28.03.2024

I.A. 7110/2024

By way of the present application filed under Order 12 Rule 6 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the applicants/plaintiffs seek a judgment on admissions, based on the contention that in the written statement filed by the defendant, it stands admitted that the subject property is 'trust property', which therefore cannot be subject matter of a Will.

2. Furthermore, it is contended that the defendant also admits that late Ms. Madhu Bhatia, who purportedly executed Will dated 18.08.2014, had Down syndrome and therefore could not have made a valid Will.
3. Issue notice.
4. Mr. Prakash Kumar appears on behalf of the defendant on advance copy; accepts notice; and seeks time to file reply.



5. Let reply be filed within 06 weeks; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
6. Mr. Kumar submits, that the so-called 'trust' was created *after* the demise of late Ms. Kaushalya Bhatia and not by way of her Will dated 04.02.1994. Counsel further disputes that late Ms. Madhu Bhatia had Down syndrome.
7. List before the learned Joint Registrar for completion of pleadings in this application on 05th July 2024.
8. List before court on 16th July 2024.

I.A. 7111/2024

9. By way of the present application filed under section 151 CPC, the plaintiffs seek exemption from filing an apostilled affidavit of Mr.Chander Shekhar, who is stated to be the trustee of plaintiff No.1 trust, submitting that the said person is based in Mississauga, Ontario, Canada, and has therefore filed an affidavit notarised by a Notary Public in that country.
10. Be that as it may, let an affidavit, duly apostilled by the High Commission India/Consulate in Canada, be filed by the plaintiffs within 06 weeks.
11. Subject to compliance of the above, the present application is disposed-of.

I.A.2779/2024

12. Let reply to this application be filed within 06 weeks; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
13. List before court on 16th July 2024.



14. The date of 26.04.2024 given earlier, stands cancelled.

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15. Learned counsel appearing for the parties submit that a connected matter bearing TEST. CAS. No. 90/2016, whereby the defendant has sought probate of Will dated 18.08.2014 executed by late Ms. Madhu Bhatia, is also pending consideration before a Co-ordinate Bench of this court. The High Court web-portal shows that that matter is posted before the Co-ordinate Bench on 10.05.2024.
16. Accordingly, subject to orders of Hon'ble the Judge In-charge (Original Side), let the present case be also listed alongwith with TEST. CAS. No. 90/2016 before the same Bench on 10th May 2024.

ANUP JAIRAM BHAMBHANI, J

MARCH 28, 2024/ak