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

+ **RFA(OS) 8/2024**

SHRI AMRIK SINGH

..... Appellant

Through: Mr Arun Batta with Mr Puneet
Bhatnagar and Ms Richa Singhanian,
Advs.

versus

SMT PARAMJEET KAUR AND ORS

..... Respondents

Through: Mr K V Gopi, Adv. for R-1.
Mr Saurabh Bhargavan, Adv. for R-2
to 5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

04.03.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

CM Appl.13496/2024

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

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2. Mr Arun Batta, who appears on behalf of the appellant, at the outset, says that perhaps the disputants could come to an amicable settlement and therefore, the parties should be referred to the Delhi High Court Mediation and Conciliation Centre [in short, "Centre"].

3. For the moment, notice is issued to ascertain the views of the respondents.

4. To be noted, this appeal is directed against the preliminary decree passed by the learned Single Judge dated 22.01.2024.

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4.1 The record also shows that the disputants are siblings and the progeny of one, Mr Hazara Singh. Evidently, Mr Hazara Singh expired on 06.05.2012.

4.2 Mr Hazara Singh had initially executed a will dated 10.03.1999.

5. In the probate proceedings taken out by respondent no.5 *qua* the will dated 10.03.1999, concededly, the appellant set up another will dated 12.09.2011. The probate action was dismissed *via* a judgment dated 13.12.2019. Unfortunately for the appellant/Amrik Singh, the probate court broadly concluded that the will dated 12.09.2019 had been executed in suspicious circumstances [See paragraphs 70 to 72 of the said order].

5.1 Insofar as the first will was concerned i.e., the will dated 10.03.1999, the trial court has observed as follows:

“75. Coming to issue no.3. In view of my observations in para no.58, I am of the view that though the will dated 10.03.1999 executed by deceased was genuine but it was not legal and valid because it did not comply with the requirements of Section 63 of Indian Succession Act, 1925, which provides for the rule that the will has to be attested by minimum two witnesses which is not the case about the will dated 10.03.1999. This issue no.3 is, therefore, decided against the petitioner because despite being genuine, the will cannot be called legal and valid due to non-compliance of provisions of section 63 of Indian Succession Act.”

6. We are told that the petitioner in the probate action, i.e., respondent no.5/Inder Pal Singh did not carry the matter in appeal. However, an appeal was preferred by the appellant/Amrik Singh. The appeal was dismissed by the learned Single Judge *via* judgment dated 04.07.2022. However, while dismissing the said appeal, the learned Single Judge made the following observations:

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“14. With regard to the Will. dated 10.03.1999 the Trial Court has held that the Will was attested by only one witness. Perusal of the Will though shows that it bears the signatures also of one Sh. J.V.Malik, Advocate who as per the endorsement of the Sub Registrar has signed as witness No.2, however, since respondent No.2 has not sought to impugn the subject order and has during arguments not pressed his prayer with regard to grant of letter of administration of Will dated 10.03.1999, no comment is being made about the validity or otherwise of the said Will.”

7. It is not in dispute that the appellant/Amrik Singh carried the matter to the Supreme Court. The Supreme Court, however, dismissed the SLP No.16919/2023 on 12.05.2023.
8. Significantly, in both the wills, the daughters of Mr Hazara Singh have not been given shares in the suit property.
9. Issue notice to the respondents.
- 9.1 Mr K V Gopi accepts notice on behalf of respondent no.1, while Mr Saurabh Bhargavan accepts notice on behalf of respondent nos.2 to 5.
10. Counsel for the respondents say that they would not be averse to the disputants being referred to a mediator for attempting a settlement in the matter.
11. Accordingly, parties and/or their counsel shall present themselves before the Delhi High Court Mediation and Conciliation Centre on 11.03.2024 at 3.00 P.M.
12. The mediator will submit his/her report before the court prior to the next date of hearing.



13. Learned Single Judge is requested to stand over the proceedings beyond the date fixed before the mediator.
14. List the matter before the court on 09.04.2024.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MARCH 4, 2024/pmc

Click here to check corrigendum, if any

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