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

+ **CS(OS) 752/2022 and I.A. 8140/2024**

MINU SUBBA

..... Plaintiff

Through: Ms. Aarohi Malik and Mr. Arjun Malik, Advocates (M: 9650604096).

versus

JYOTI SUBBA & ORS.

..... Defendants

Through: Mr. Kunal Sabharwal, Mr. Deepak Mahajan and Mr. Raghav Mittal, Advocates for D-1 1, 2 &3 (M: 9891117595).
Mr. Arjun Aggarwal Advocate for D-4 (M: 9873632138).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **10.04.2024**

1. This hearing has been done through hybrid mode.

I.A. 8140/2024 (for direction) in CS(OS)-752/2022

2. This is an application filed by Defendant No. 1-Ms. Jyoti Subba seeking DNA testing of the Plaintiff. It is alleged by the Plaintiff that Defendant No. 1 is the biological mother of the Plaintiff. The Defendant/Applicant vide the present application seeks to dispute this allegation.

3. Disputes in the present matter are between parties who are claiming to be the legal heirs of late Sh. Moni Kumar Subba, who was a member of Parliament.

4. It is the case of the Plaintiff that she is the daughter of late Shri Moni



Kumar Subba and Smt. Jyoti Subba- Defendant no. 1. According to the Plaintiff, Shri Moni Kumar Subba and Smt. Jyoti Subba got married while Shri Moni Kumar Subba was already married to one Smt. Tilmaya Subba. The Defendant nos. 2 and 3 are the other children from Smt. Jyoti Subba, while the Defendant nos. 4 and 5 are the children of late Shri Moni Kumar Subba from his earlier legally wedded wife Smt. Tilmaya Subba.

5. As per Defendant No.1, her only children are Defendant Nos. 2- Mr. Chirag Subba and Defendant No. 3-Ms. Roshni Subba through the deceased, Sh. Moni Kumar Subba.

6. Thus, the suit involves two children of the deceased from the marriage with Smt. Tilmaya Subba i.e. Defendant Nos. 4 and 5 and two children of the deceased i.e. Defendant Nos. 2 and 3 from the marriage with Mrs. Jyoti Subba, which is disputed. Further, the Plaintiff also claims to be the daughter of the deceased and Defendant No. 1.

7. On behalf of the Applicant/Defendant No. 1, it is submitted that the reason why the DNA testing is important is because the birth certificate which was filed by the Plaintiff is not verifiable from the concerned nursing home and from the authority.

8. Ld. Counsel for the Plaintiff dispute this position and seek time to file a reply.

9. On behalf of Defendant No. 4 it is submitted that in fact DNA testing should be conducted even of Defendant Nos. 2 and 3 with Defendant Nos. 4 and 5 to establish whether Defendant Nos. 2 and 3 are the children of the deceased or not. Accordingly, Defendant Nos. 4 and 5 are also permitted to file a reply to this application.

10. Let replies be filed within two weeks. Rejoinders, if any, be filed



within two weeks.

11. List before the Joint Registrar on 23rd April, 2024, the date already fixed.

12. List before the Court on 21st May, 2024, the date already fixed.

PRATHIBA M. SINGH, J.

APRIL 10, 2024

mr/rks