



\$~59(Appellate Side)

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

+ **CM(M) 440/2022 & CM APPL. 22703/2022**

ANIL KUMAR SAXENA & ORS. Petitioners

Through: **Mr. V.P. Rana with Ms. Jyoti
Nambiar, Adv.**

versus

OM PRAKASH KASHYAP Respondent

Through:

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR**

ORDER

% **12.05.2022**

CM APPL. 22703/2022 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M) 440/2022

3. The impugned order, passed under Section 10 of the Code of Civil Procedure, 1908 (CPC), stays the trial in a title suit, filed by the petitioner, on the ground that an earlier probate petition, involving the will which was subject matter of consideration in the title suit, was pending.



4. This Court is already seized of the issue of whether a title suit could be stayed on the ground that a probate petition had been filed seeking probate of the will which was disputed in the title suit.
5. In view thereof, issue notice returnable on 28th September, 2022. Notice be served on the respondents by all modes including *dasti* as well as through learned Counsel who has appeared on behalf of the respondent before the learned Trial Court.
6. Reply, if any, be filed within four weeks, with advance copy to learned Counsel for the petitioner, who may file rejoinder thereto, before the next date of hearing.
7. Re-notify on 28th September, 2022.

C.HARI SHANKAR, J

MAY 12, 2022
SS