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

+ **TEST.CAS. 2/2006**

BHARAT BHUSHAN GUPTA

..... Petitioner

Through: Mr. Irfan Ahmed, Adv.

versus

STATE ANDS ORS

..... Respondents

Through: Mr. Sanjib Dutta, Ms. Suparna Sinha
and Mr. Tarun K. Samantray, Adv.
for R-2&3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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05.04.2019

IA No.13955/2018 (of the respondent no.2 u/O VIII R-1 CPC).

1. The respondent no.2 seeks to place on record the certified copy of the cross-examination of the petitioner in a civil suit between the parties.
2. Though the counsel for the petitioner states that the respondents have been delaying these proceedings by filing one application after another and also contends that the evidence of the plaintiff in the other proceedings is not relevant, but considering that the document sought to be filed is the evidence of the petitioner in another proceeding, subject to the objection of the petitioner of relevancy, the application is allowed and disposed of.
3. The counsel for the petitioner states that the respondent no.2/applicant is also wanting to file the documents with respect to a query made under the Right to Information Act, 2005.
4. Subject to proof, the said documents are also taken on record.
5. It cannot be forgotten that this Court in this proceeding is exercising testamentary jurisdiction where a duty is owed by the Court, also to the

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deceased and though such proceedings are also governed by procedure as applicable to suits but in application thereof to this proceeding, it ought not to be forgotten that the Court is to implement intent of deceased and technicalities or procedure cannot come in the way of determination of such intent.

6. The application is allowed and disposed of.

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7. The parties state that recording of evidence of the respondents before the Joint Registrar is under way.

8. List before the Joint Registrar on 26th April, 2019 for scheduling further dates of trial.

RAJIV SAHAI ENDLAW, J

APRIL 05, 2019

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