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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 38/2014**

HARKIRAT SINGH SODHI Petitioner

Through Mr. Lalit Gupta, Adv.

versus

GOVT OF NCT OF DELHI & ORS Respondent

Through Mr. Manish K. Saryal, Adv. for
R-2 to 4

CORAM:

**ASHUTOSH KUMAR (DHJS), JOINT REGISTRAR
(JUDICIAL)**

ORDER

% **06.05.2016**

**IA No.5620/2016 under Order XIII Rule 10 r/w Section 151 CPC
moved on behalf of petitioner for summoning of record of Test
Case 42/2014 alongwith Will dated 07.09.2004 allegedly executed
by late Mrs. Surinder Kaur Sodhi kept in sealed cover**

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Learned counsel for respondent no.2 to 4 has sought adjournment for filing reply, which has been strongly opposed by learned counsel for petitioner on the ground that the present application is formal in nature (in view of order dated 22.04.2016 of the Hon'ble Court in IA 2062/2016).

Relevant portion of the said order as mentioned in para no.4 is reproduced herein:-

“4. Noting the submission made by learned counsel for parties and the fact that there is an urgency in the matter, inasmuch as the PW1 is being of advance age of 74 years; cardiac patient, and his evidence was expedited, the application is allowed, the examination of PW1 shall continue. Suffice to state that the rights of respondent no.2 to 4 can be secured by observing that the examination of PW1 shall be without

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prejudice to the rights and contention of respondent nos.2 to 4 in the original appeal No.467/2015. Ordered accordingly. Parties to appear before the learned Local Commissioner on 9th May, 2016 at 2.30 p.m.”

Learned counsel for respondent no.2 to 4 has submitted that since OA No.467/2015 is pending, therefore allowing the application would make the said OA infructuous. However the same ground was taken by learned counsel for respondent no.2 to 4 in IA 2062/2016, whereupon the aforesaid order was passed by the Hon'ble Court.

Learned counsel for petitioner has submitted that barring the aforesaid record which has to be put to the witness i.e. PW1 Ashok Kumar, rest of his evidence has already been completed.

From the aforesaid order of the Hon'ble Court, it is clear that the matter has been fixed before learned Local Commissioner for evidence of PW1 on 9th May, 2016 and rights of respondent no.2 to 4 have been secured by observing that the examination of PW1 shall be without prejudice to the rights and contention of respondent nos.2 to 4 in the original appeal No.467/2015.

In view of the same and in view of the reasons mentioned in the application, the same is allowed. Aforesaid record be summoned for evidence of PW1 before learned Local Commissioner for date fixed i.e. 9th May, 2016 at 2.30 p.m, on filing of PF (within one working day). IA is accordingly disposed of.

ASHUTOSH KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

MAY 06, 2016/ab