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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 & Mr. Siddharth
Arora, Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondent

Through: Ms.Amrit Kaur Oberoi & Mr. Manish
Kumar Saryal, Advocates for R-2&4.

CORAM:
MS. DEEPALI SHARMA (DHJS), JOINT REGISTRAR
(JUDICIAL)

% **ORDER**
06.04.2018

IA No. 2162/2018 filed by the Petitioner under Order 7 Rule 14 r/w
Order 18 Rule 1 and Section 151 CPC for placing on record additional
documents

The present petition has been filed by the Petitioner seeking probate of the WILL dated 13.01.1987 executed by late Mrs. Surinder Kaur Sodhi, mother of Petitioner herein. The issues in the present matter were framed on 06.01.2017. On 06.01.2017, the present petition has been consolidated with TEST.CAS No. 42/2014 wherein Respondent no.2 to 4 herein have sought grant of probate in respect of WILL dated 09.09.2004 also executed by Mrs. Surinder Kaur Sodhi. Vide the said order dated 06.01.2017 the present petition was directed to be treated as the lead matter.

By way of the present application, the Petitioner is seeking to place on

record certain additional documents, which are stated to be relevant to the present matter and include a WILL executed by late Shri Gurmukh Singh Chawla, father of the Testator; certified copy of the records of the Probate Petition bearing No. 21/1985 titled as “Narender Kaur Vs. State”, which was disposed of by this Hon’ble Court on 30.03.1987; registered WILL dated 05.07.1985 executed by Mrs. Raj Kaur Chawla, mother of the Testator; original jewellery list dated 27.06.1992 of one M/s Roop Chand Jewellers pertaining to the jewellery belonging to mother of Testator and other letters pertaining to the year 1981 and 1983; photographs taken during the period 2006-07 and on various occasions till the year 2013.

It is averred by the Petitioner that the abovesaid documents are relevant for adjudication of the present petition. It is also stated that while searching for documents to substantiate its defence in CS (OS) No. 90/2017 filed by Respondent no.2 herein against the Petitioner herein before the Hon’ble Delhi High Court, the Petitioner came across the abovesaid record at Palace Cinema Complex, which was closed down in the year 2002 and since then was almost unused. It is stated that the Petitioner chanced upon the abovesaid documents at the said Palace Cinema Complex and as such, the said documents were not available to the Petitioner earlier.

No reply to the above application has been filed by the contesting Respondent no. 2 to 4, who have argued the application straightaway.

It is noteworthy that the present application is a third application filed by the Petitioner under Order 7 Rule 14 CPC since the framing of issues on 06.01.2017. On 04.07.2017, IA No. 7233/2017 filed by the Petitioner under Order 7 Rule 14 CPC was listed and notice was issued thereupon. Subsequently on 10.08.2017, the said IA bearing No. 7233/2017 was

allowed on a 'no objection' being given by the counsels for the Respondents no. 2 to 4 and the documents filed alongwith the application were taken on record. Thereafter on 25.09.2017, another application being IA No. 11266/2017 was filed by the Petitioner under Order 7 Rule 14 CPC and notice was issued to the Respondents on the said application. The said application being IA No. 11266/2017 was allowed after hearing the parties on 30.01.2018. The Petitioner was also directed to file the affidavit of evidence of Petitioner's witnesses, which direction was also given to the Petitioner on earlier dates. On 15.02.2018, the Petitioner has filed yet another application under Order 7 Rule 14 CPC i.e. the present application to bring further documents on record. No Affidavit of Evidence of the Petitioner is on record.

It is relevant to note that the only reason for not filing the present documents at an earlier stage of the suit has been urged to be that the documents were lying at the Plaza Cinema and were not easily accessible earlier and it is only while preparing defence in CS (OS) 90./2017 that the Petitioner chanced upon the aforesaid documents. It is intriguing as to why the Petitioner never thought it fit to search for the above documents at an earlier stage for the purposes of the present petition, which was filed in the year 2014. The fact that the Petitioner never searched for the abovesaid documents at an earlier stage as the same are stated to be not easily accessible does not mean that the said documents were not in power and possession of the Petitioner. In fact, filing of successive applications to place on record Petitioner's documents only indicates an utter lack of due diligence on the part of the Petitioner. Moreover, the photographs sought to be placed on record pertain to a later period and it is not the case of the

Petitioner that the said photographs have been found at Palace Cinema. It is noteworthy that the earlier IAs filed by the Petitioner under Order 7 Rule 14 CPC were allowed considering the fact that the documents were relevant and also in view of the judgment of the Hon'ble Supreme Court in "*Kapil Kumar Sharma Vs. Lalit Kumar Sharma 2013 (14) SCC 612*" inasmuch as the matter is still at the stage of Petitioner's evidence. However, one cannot lose sight of the fact that the Petitioner has filed three successive applications for placing on record additional documents and thereby not let the matter proceed further. There is complete lack of due diligence on the part of the Petitioner, who has been in power and possession of the documents sought to be placed on record at all times. In these circumstances, the conduct of the Petitioner cannot be condoned.

Above application of the Petitioner is accordingly dismissed.

IA stands disposed of.

I.A.No. 509/2018 filed by the petitioner

Counsel appearing for the petitioner and respondent no. 2 to 4 state that they shall inter se conduct remaining admission/denial of the documents and shall file their respective affidavit of admission/denial within two weeks. Be filed as prayed within two weeks with advance copy.

I.A. stands disposed of.

Accordingly, re-notify the matter for remaining admission/denial of documents on **14th May, 2018**.

**DEEPALI SHARMA (DHJS)
JOINT REGISTRAR (JUDICIAL)**

APRIL 06, 2018/tp