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

+ TEST.CAS. 38/2014, I.As. 11266/2017, 2748/2018, 6623/2019,
10304/2019, 10305/2019, 15209/2019, 15212/2019, 2684/2020,
2685/2020, 3619/2020 & O.A. 144/2019

HARKIRAT SINGH SODHI

..... Petitioner

Through: Mr. Shankar Vaidialingam, Mr. Lalit
Gupta, Mr. Shivans Vaidialingam and
Mr. Siddharth Arora, Advs.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Ved Prakash Sharma,
Ms. Amrit Kaur Oberoi and Mr.
Manish Kumar, Advs. for R-2 to 4

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.07.2022

OA. No. 144/2019

1. This Chamber Appeal has been filed by the petitioner challenging the order dated October 19, 2019 passed by the learned Joint Registrar dismissing the application being IA 2163/2019 filed by the petitioner herein under Order XI Rules 4(3) & 7 read with Order XII Rule 2(A) and Section 151 CPC for dispensing with the proof of documents filed by the Petitioner / Appellant qua Respondent Nos. 2 to 4 and declaring the documents so filed to be deemed to be admitted qua Respondent Nos. 2 to 4.
2. I have heard the learned counsel for the parties for some time.
3. Mr. Shankar Vaidialingam, learned counsel appearing for the



Petitioner / Appellant has contested the finding of the learned Joint Registrar, in the impugned order, that the Order XI Rules 4(3) & 7 CPC as amended by The Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015 shall not be applicable to the Testamentary Case as the same is different from a Commercial Suit, being a perverse finding overlooking the spirit underlying the object behind the amendments brought in. According to him, any proceedings wherein the process of trial is undertaken, the same must be regulated by the procedure laid down in the above provision.

4. Mr. Vaidialingam has also by drawing my attention to the affidavit filed with regard to the admission / denial carried out by the Respondent Nos. 2 to 4 states that the admission / denial with regard to certain documents is not in accordance with Order XI Rule 4 CPC, which has resulted in ambiguity. It is expected that the affidavit should give a clear picture with regard to the stand of a party on the documents of the other side.

5. He states, the affidavit as filed shall result in the proceedings getting delayed. It is appropriate for this Court that at the time of deciding the petition, to award cost in favour of a party and against the party, which has delayed the proceedings.

6. On the other hand, Mr. Sharma, learned counsel appearing for the respondent does not really contest the challenge made by Mr. Vaidialingam with regard to the findings of the learned Joint Registrar that the amendments to the CPC by the The Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015 are not applicable but he justified the affidavit of admission / denial filed by



the respondent Nos.2 to 4. According to him, the learned Joint Registrar has, on the basis of the affidavit, exhibited the documents and as such no further steps are required to be taken. He also joins Mr. Vaidialingam to state that the party which has delayed the proceedings, must be burdened with cost.

7. Having noted the submissions made by the learned counsel for the parties it is clear that Mr. Sharma has not contested the plea of Mr. Vaidialingam with regard to the fact that admission / denial of the documents have to be in terms of the amendments made to the CPC by the Commercial Courts Act, 2015. If that be so, though documents have been exhibited but in terms of Rule 7(A) of the Original Side Rules, the learned Joint Registrar is required to prepare document Schedule. Accordingly, I place this matter before the learned Joint Registrar for that purpose.

8. It is made clear that the issue of cost against the party which has delayed the proceedings, shall be considered at the time of final hearing.

9. The appeal is disposed of.

10. List the pending applications for hearing before Court on October 27, 2022.

V. KAMESWAR RAO, J

JULY 25, 2022/jg