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

HARKIRAT SINGH SODHI

..... Petitioner

Through: Mr.Shankar Vaidialingam,
Mr.Shivain Vaidialingam,
Mr.Lalit Gupta, Mr.Rajat Asija,
Adv. alongwith petitioner in
person.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr.Ved Prakash Sharma,
Ms.Amrit Kaur Oberio,
Mr.Manish Sargal, Mr.Abha
Sharma, Adv. for D-2 to 4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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08.02.2023

I.A.15209/2019

1. The learned counsel for the respondent nos.2 to 4/applicants prays for leave to withdraw the present application with liberty to initiate an appropriate proceeding in regard to the prayer made.

2. The application is dismissed as withdrawn with liberty as prayed for.

I.A. 2427/2023

3. This is an application filed by the petitioner seeking condonation of delay in re-filing of the I.A. filed vide diary no.429062 dated 19.03.2020.

4. The delay in re-filing is condoned. The application stands disposed of.

I.A. 2428/2023

5. This application has been filed praying for the following reliefs:

*“a) Pass an appropriate order thereby
condoning the delay of around 71 days in
re~filing the additional documents, previously*



filed vide Diary No. 369674 (old), dated 06.03.2020, 429161 (new), dated 19.03.2020, and formally take on record the original copy of the said additional documents which were physically filed with the Registry attached to this Hon'ble Court before coming into the force of e-Filing Rules of the High Court of Delhi, 2021."

6. The learned counsel for the respondent nos.2 to 4 submits that these documents cannot be taken on record without an appropriate application of the petitioner. He further submits that these documents were filed in purported answer to the application being I.A. No.15209/2019, which today stands withdrawn by the respondent nos.2 to 4.

7. On the other hand, the learned counsel for the petitioner submits that these documents are relevant for the purposes of adjudication of the present dispute.

8. In my view, as these documents were filed only in response to the interim application filed by the respondent nos.2 to 4, which stands withdrawn today, the petitioner, if so advised, should file his own application to show why these documents should be allowed to be brought on record.

9. With the above observation, the present application is disposed of as having been rendered infructuous.

I.A.15212/2019

10. By the order dated 06.01.2017, this Testamentary Case was consolidated with TEST CAS.42/2014, observing as under:

"In this view, both the cases are hereby consolidated. Having regard to the fact that Test Case 38/2014 was first in chronology and further that the Will propounded herein is also prior in terms of time to the date of the Will propounded in the other case, it is directed that Test Cas 38/2014 shall be the lead case in which evidence shall be recorded which shall, however, govern the decision in both the cases to be rendered by a common judgment.



It appears that the framing of issues in the connected Test Case 42/2014, affidavit in evidence has been filed for and on behalf of the petitioner of the said case.

Given the above directions, the recording of evidence in the said case shall presently be kept on hold. The petitioner of the said connected matter Test Cas 42/2014 being one of the party respondents in Test Cas 38/2014 will be entitled to lead evidence by furnishing a fresh affidavit at appropriate stage after the petitioner of this case has concluded his evidence.”

11. The respondent nos.2 to 4 pray that they be allowed to lead the evidence first inasmuch as it is their case that the Will setup by the petitioner has been revoked by a Revocation Deed dated 05.06.2004 and the Testator, thereafter, executed a fresh Will dated 07.09.2004.

12. The learned counsel for the respondent nos.2 to 4/applicants further submits that the said respondents do not dispute the signature of the Testator on the Will dated 31.01.1987 propounded by the petitioner, however, challenge the said Will as having been obtained under undue influence. This contention, however, is refuted by the Petitioner.

13. Be that as it may, and binding the respondent nos. 2 to 4 to the statement made, as the prayer of the respondent nos. 2 to 4 to lead evidence first is not opposed by the learned counsel for the petitioner, it is directed that the respondent nos.2 to 4 shall lead their evidence first. However, as directed in the order dated 06.01.2017, the Test Cas. 38/2014 shall remain the lead case in which evidence will be recorded.

14. The application is disposed of in the above terms.

I.A. 6623/2019

15. This application has been filed by the petitioner to file a fresh affidavit of evidence of PW-2.

16. In view of the order passed hereinabove, the learned counsels for the parties agree that the petitioner shall anyway be entitled to file



fresh affidavit of evidence on the conclusion of the evidence of the respondent nos.2 to 4.

17. The application is, therefore, disposed of as having become infructuous.

I.A.11266/2017

18. This application has already been disposed of vide order dated 30.01.2018.

19. The Registry is directed not to show the same in the Cause List in future.

I.A.2748/2018

20. This application has been rendered infructuous and is accordingly disposed of.

I.A. 10304/2019, 10305/2019, 2684/2020, 2685/2020, 3619/2020

21. In view of the order passed hereinabove, these applications are rendered infructuous and are disposed of accordingly.

TEST CAS. 38/2014

22. In view of the order passed today hereinabove, the parties shall file their list of witnesses within a period of four weeks from today.

23. The respondent nos.2 to 4 shall also file the affidavit of evidence of their witnesses within a period of six weeks from today.

24. List before the learned Joint Registrar (Judicial) on 13th July, 2023 for recording of the evidence.

25. The Joint Schedule of Documents prepared by the learned Joint Registrar (Judicial) on 11.01.2023 shall stand approved.

NAVIN CHAWLA, J

FEBRUARY 8, 2023/Arya