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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 47/2010, I.A.11204/2022**
RAKESH SEHGAL

..... Petitioner

Through: Ms. Shipra Ghose, Advocate through
video conferencing.

versus

STATE & ANRS

..... Respondent

Through: Appearance not given.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **31.08.2022**

I.A.11203/2022 (For directions)

1. An application under **Section 30 read with Section 151 CPC** has been filed on behalf of the Petitioner for directing the officials of FSL, Rohini to report about the genuineness of the Will dated 19th October, 2004, produced before this Court.
2. Learned counsel for the plaintiff has submitted that on 06th October, 2004 i.e. two weeks prior to the execution of the alleged Will dated 19th October, 2004, Smt. Krishna Kumar had executed a Relinquishment Deed dated 06th October, 2004. Because she was not having good health, the Sub-Registrar had come to the residence for the purpose of registration of the Relinquishment Deed on which photographs of all the parties were pasted. Subsequently, this Will dated 19th October, 2004 has been fabricated by copying the photographs pasted on the Relinquishment Deed on the alleged Will which is a fake document. Moreover, from the bare perusal of the



signatures of Smt. Krishna Kumari on the alleged Will when compared to her admitted signatures, show that they are blatantly forged. There is voluminous evidence on record to show that the Will dated 19th October, 2004 of Smt. Krishna Kumari is a forged and fabricated document. In fact, a criminal complaint had also been made by the plaintiff in which the investigations have been carried out. It is, therefore, submitted that for conclusively proving that the Will is forged, the same may be sent to FSL for examination as to its genuineness.

3. The application is opposed by the learned Counsel for the defendant who, all throughout, had taken a defence that the alleged Will was forged. Now the matter is listed for Petitioner's evidence and at this belated stage the present application cannot be allowed.

4. **Submissions heard.**

5. The petitioner had filed a petition under **Section 276 read with Section 300 of the Indian Succession Act, 1925** for grant of Probate with regard to the registered Will dated 30th April, 2001 of Late Smt. Krishna Kumari. The respondent No.2 had asserted that the last Will executed by the deceased Smt. Krishna Kumari is dated 19th October, 2004 and not the Will propounded by the petitioner. The respondent had thus, propounded the Will dated 19th October, 2004 of Late Smt. Krishna Kumar as the last Will, but the authenticity of the same was challenged by the petitioner. It is in the pleadings itself that the petitioner had questioned the validity of the Will dated 30th April, 2001. The issues were framed in the case on 29th November, 2010 and additional issue was framed on 28th July, 2016 and since then the matter has been listed for P.E. The plaintiff all through out claimed the alleged Will as forged and fabricated documents. So much so



he had even filed a criminal complaint in regard to the forgery of the Will. These are the civil proceedings wherein the burden of proving the evidence is on the parties. The petitioner himself has submitted that there is overwhelming documentary and circumstantial evidence on record establishing the alleged Will dated 30th April, 2001 to be forged and fabricated document. There is no ground for referring the document to FSL for examination.

6. The plaintiff is at liberty to prove the Will to be non-genuine by way of evidence, which is still being led on behalf of the petitioner.

7. There is no merit in the application for sending the document to FSL for ascertaining its genuineness. The application is hereby dismissed.

I.A.8168/2022 (For appointment of Receiver)

1. An application under Section 195 of the Indian Succession Act read with Order XL Rule 1 read with Section 151 C.P.C has been filed on behalf of the petitioner for appointment of Receiver for the estate of Late Krishna Kumari.

2. None is appearing on behalf of respondent No.2 and 3 and no reply has been filed.

3. Reply be filed within fifteen days.

4. List this matter for arguments on this application on 06th December, 2022.

NEENA BANSAL KRISHNA, J

AUGUST 31, 2022/va