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

+ TEST.CAS. 39/2012

SIDDHARTHA KAPOOR

..... Petitioner

Through None

versus

GOVT OF NCT AND OTHERS

..... Respondents

Through Mr. Lalit Gupta and Mr. Siddhath and
Ms. Saymya Jain, Advocates for R-4

CORAM:

SH. RAJESH KUMAR SINGH (DHJS), JOINT REGISTRAR

ORDER

% **27.07.2017**

IA No. 6187/2017 (filed by respondent No. 4 under Section 151 CPC)

By way of this IA, respondent No. 4 has prayed that respondent No. 2 and 3 be directed to lead their evidence before respondent No.4 if they wish to lead any evidence. Vide order dated 23.02.2017, Hon'ble Court directed the parties to lead the evidence first in the Test Case and thereafter evidence is to be recorded in the connected matter i.e. CS (OS) 2658/2012. No reply to the IA has been filed by petitioner and by respondent No. 2 and 3 despite time taken by them. None has appeared for the petitioner and for respondent No. 2 and 3 despite passover. It is 12:30 pm now.

Learned counsel for the applicant relies upon judgment by Hon'ble Delhi High Court in the matter of Sarabjit Singh Vs. Gurinder Singh Sandhu reported as 2011 (121) DRJ 102. Respondent



No. 2 and 3 are supporting the petitioner. They have filed their affidavits in support of the petitioner. Respondent No. 2 has stated in her affidavit that the Will in question was made by her husband late Mr. Mahendra Kumar Seth and respondent No.3 has stated in her affidavit that the Will was made by her father late Mr. Mahendra Kumar Seth. Petitioner could have examined respondent No. 2 and 3 as his witnesses. Respondent No.4 is the only contesting respondent. If respondent No.4 leads its evidence before evidence, if any, is led by respondent No. 2 and 3, prejudice will be caused to respondent No.4. Accordingly, IA is allowed. Respondent No. 2 and 3 are directed to file their evidence affidavit within four weeks with advance copy to learned counsel for petitioner.

TEST.CAS. 39/2012

Adjourned to 6th September, 2017 for RE (for evidence of respondent No. 2 and 3, if any).

**RAJESH KUMAR SINGH (DHJS)
JOINT REGISTRAR**

JULY 27, 2017