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

+ **CS(OS) 2552/2014 with CC 32/2015, I.A. 16062/2014, I.A. 3270/2015, I.A. 14719/2015, I.A. 16251/2015, I.A. 21879/2015, I.A. 5123/2016, I.A. 6219/2016, I.A. 14213-14214/2016, I.A. 14579-14580/2017, I.A. 14286/2018 & I.A. 3544/2019**

MANJIT SINGH KOCHHAR Plaintiff
Through: Mr.Gurbir Singh Raikhy,
Advocate.

versus

HARJIT SINGH KOCHHAR & ORS Defendants
Through: Mr. Siddharth Yadav, Advocate for
D-1.
Mr. Dhruv Bose, Advocate for
Mr.Wasim Ashraf, Advocate for
D-2.
Mr.Rikesh Singh, Advocate for
HPCL/D-3.
Ms.Manmeet Arora, Mr.Pratyush
Sharma & Mr.Keshav Sehgal,
Advocates for D-5.

+ **TEST.CAS. 57/2014 with I.A. 25733-25735/2014 & I.A. 3635/2019**

DRA MOUNTFORD Petitioner
Through: Mr. Siddharth Yadav, Advocate.

versus

STATE GOVERNMENT OF NCT OF DELHI Respondent
Through: Mr.Gurbir Singh Raikhy, Advocate
for R-3.
Ms. Manmeet Arora, Mr.Pratyush
Sharma & Mr.Keshav Sehgal,
Advocates for R-4.



CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
% 09.10.2019

1. By the order dated 09.08.2019 passed in the present proceedings, the Court considered three applications filed by defendant no.5 under Order XI Rule 12 of the Code of Civil Procedure, 1908 seeking discovery of the assets of Late Shri Manohar Singh Kochhar. The order of the Court was as follows:-

“1. These are three applications filed under Order XI Rule 12 CPC seeking discovery of various assets of Late Shri M. S. Kochhar. The present Test. case has been filed under Section 276 of the Indian Succession Act, 1925 seeking grant of letters of administration/probate in respect of the Will dated 27th January, 2014 executed by Late Shri M. S. Kochhar. The Petitioner - DRA Mountford is the executor of the Will and the beneficiary of the Will is Sardar H. S. Kochhar. A perusal of the Will shows that it mentioned a number of movable assets in paragraphs 2 & 3 and other paragraphs of the Will. Various immovable properties have also been mentioned. In view of the large number of assets that have been mentioned in the Will, the Respondents seek discovery of the details of the said assets, which have been bequeathed as per the Will to Sardar Harjit Singh Kochhar.

2. Mr. Yadav, Id. counsel for the Petitioner resists the applications on the ground that vide order dated 13th March, 2019 similar application was dealt with in the civil suit filed for partition between various heirs of Late Shri M. S. Kochhar being CS (OS) 2552/2014.

3. The present Test. case and the suit for partition are being listed together from time to time. If the Will is proved by the Petitioner herein, then the valuation of the assets



would be made in terms of the assets disclosed in the Will. The present applications do not relate to valuation of the properties and assets but relate to discovery of the exact details of the movable and immovable assets and list thereof, as allegedly bequeathed in the Will. Ld. counsel appearing for the Petitioner submits that he being the executor does not have details of the said assets as mentioned in the Will. The admitted position is that Sardar H. S. Kochhar, who is son of deceased testator, is in possession of the movable and immovable assets of deceased.

4. In order to ensure that adjudication of the probate is not delayed any further, it is deemed appropriate to record the statement of Sardar H. S. Kochhar on the next date in order to ascertain as to what are the movable and immovable assets in his possession and power, which he claims to have received under the Will of his father. Directions, if any, to be passed in the I.As. shall be considered on the next date after statement of Sardar H. S. Kochhar is recorded. Sardar H. S. Kochhar to appear before the Court on the next date.

5. List on 9th October, 2019 at 2:15 pm.”

2. Pursuant to this order Mr. Harjit Singh Kochhar is present in Court today. Mr. Siddharth Yadav, learned counsel for the petitioner however submits that no statement is required to be recorded, in view of the order dated 13.03.2019, by which a similar application in CS(OS) 2552/2014 was disposed of.

3. I find that the aforesaid objection was raised by Mr. Yadav when the order dated 09.08.2019 was passed and the directions extracted above were nevertheless made by Court. In these circumstances, in the absence of any application for review of the order dated 09.08.2019, or appeal being filed against the said order, it is not open for Mr. Yadav to argue



that the statement of Mr. H.S. Kochhar is not required to be recorded. I have enquired whether Mr. Yadav, learned counsel for the petitioner or Mr.Kochhar intend to file an application for review or appeal against the said order. In response, I am informed that Mr.Kochhar is willing to have his statement recorded today. The statement of Mr. H.S. Kochhar pursuant to the order dated 09.08.2019 is recorded separately.

4. List the suit and the pending applications on 11.02.2020.

TEST.CAS. 57/2014 with I.A. 25733-25735/2014 & I.A. 3635/2019

1. Ms. Manmeet Arora, learned counsel for respondent no.4 states that respondent no.4 will file his rejoinder to the reply of the petitioner to his objections, within four weeks from today.

2. As far as the documents which are placed on record are concerned, all the parties shall file their affidavits of admission/denial within six weeks from today.

3. List before the Joint Registrar on 04.12.2019 for marking of exhibits in respect of the Testamentary case.

4. List, alongwith the pending applications, on 11.02.2020.

PRATEEK JALAN, J

OCTOBER 09, 2019

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