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IN THE HIGH COURT OF DELHI AT NEW DELHI

TEST.CAS. 65/2007

GURDEEP SINGH

..... Petitioner

Through: Ms. Chandrika Gupta, Adv.

versus

STATE & ORS.

..... Respondents

Through: Mr. Saurabh Tewari, Adv. for
R-2 with R-2 in person

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

% **22.02.2024**

TEST.CAS. 65/2007

1. As per office note, the written synopsis stated to have been filed by the petitioner is still not on record.
2. At this stage, it is pointed by learned counsels for the parties that the Hon'ble Court has already listed this matter for final arguments on 07.08.2024. So, I find it appropriate to expedite the disposal of this issue.
3. Further arguments heard as to the relevancy of the documents sought to be summoned from the witness mentioned at Sr.6 of the List of Witnesses filed by respondent.2.
4. In the List of Witness at serial no.6, learned counsel for the respondent no.2 has sought to summon the record of Hindustan Corporative Housing Building Society Limited, M-397 Mezanine Floor, Guru Harkishan Nagar, New Delhi-110084 to prove the ownership and allotment of the plot no.210, Guru Harkishan Nagar, Delhi to respondent no.2 and that it was not allotted or owned by father of the parties late Sh. Amrit Singh. Learned counsel for the applicant had stated that in his Objections, he has clearly taken up the stand that the Will in question is



wholly ambiguous and does not explain the true position in the matter. In the said Will, Ex.PW1/1, it is stated by the testator Mr. Amrit Singh that the testator gave resplendent no.2 money required lacs of rupees after selling his Harkrishan Nagar Plot no.210 area 125 sq. yds. at New Delhi. However, the summoned records would prove that the father of the parties Sh. Amrit Singh was never the owner of the said property and the entire money for allotment of the said property was paid to the concerned society by respondent no.2 and not the father of the parties. Thus, it will prove on record that the contents of the Will are ambiguous and position as to the ownership of properties has not been correctly reflected in the Will in question. So, he submits that the summoned record is very material and relevant for proving Issue no.2.

5. *Per contra*, learned counsel for the petitioner submits that the aforesaid records is totally irrelevant as the aforesaid property is not the subject matter of the present petition. Moreover, she has strongly placed reliance on page no.9 of the replication, wherein it is stated by the petitioner that the father of the parties filed a suit against the respondent no.2 seeking to restrain him from transferring the aforesaid property i.e. plot no.210, Guru Harkishan Nagar, Delhi. During the course of pendency of the suit, the settlement was arrived at and Sh. Amrit Singh/ father of the parties paid Rs.27,60,000/- to the respondent no.2 in full and final settlement of the claims of the respondent no.2. So, it is stated that the issue of ownership of the said property is beyond the scope of the present petition.



5.1 In order to controvert the learned counsel for the petitioner, learned counsel for the applicant has relied on before me Agreement/Receipt, Ex.P12 and Agreement to Sell, Ex.P13 (filed in connected matter i.e. CS(OS) 2426/2001) to contend that even in the said two documents, the respondent no.2 is the vendor of the aforesaid property and not the father of the parties. So, he reiterates that the summoned record is material for reaching the just and fair conclusion in the present matter.

6. I have carefully considered the submissions and perused the records. The documents i.e. Ex.P12 and Ex.P13 (filed in connected matter i.e. CS(OS) 2426/2001) clearly reflect that the aforesaid property i.e. plot no.210, Guru Harkishan Nagar, Delhi was sold by the respondent no.2 in the year 1999 to another party and not the father of the parties. In the said Will, Ex.PW1/1, it is stated by the testator Mr. Amrit Singh that the testator gave resplendent no.2 money required lacs of rupees after selling his Harkrishan Nagar Plot no.210 area 125 sq. yds. at New Delhi. The learned counsel for the respondent no.2 has specifically questioned the correctness of contents of the Will in question in the objections filed by the respondent no.2.

In these circumstances, I find merit in the contention made by learned counsel for the respondent.2 that the summoned record is relevant and material for reaching just and fair decision in the present matter. So, I am satisfied with the relevancy of the documents sought to be summoned by the respondent no.2 from witness at serial no.6 of the List of Witnesses. It is stated by learned



counsel for the respondent no.2 that he is the last witness of the respondent no.2.

7. As the matter is already listed before the Hon'ble Court on 07.08.2024, the learned counsel for the respondent no.2 is directed to take appropriate steps for summoning of the aforesaid record by filing appropriate summoning application within one week with copy to the opposite side.

Re-notify the matter for awaiting report of learned Local Commissioner/further proceedings on 02.04.2024.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
FEBRUARY22, 2024/ab
Click here to check corrigendum, if any