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

CS(OS) 382/2011

RAKESH SEHGAL

..... Plaintiff

Through: Mr. S.K. Sharma, Adv.

Versus

SUDESH KUMAR SAIGAL & ORS

..... Defendants

Through: Mr. Rajat Wadhwa and Mr. Nikhil Mehta, Advs.

AND

CS(OS) 553/2011

RAKESH SEHGAL

..... Plaintiff

Through: Mr. S.K. Sharma, Mr. Rajt Wadhwa and Mr. Nikhil Mehta, Advs.

Versus

RAVINDER KUMAR SEHGAL & ANR

..... Defendants

Through: Mr. Rajat Wadhwa and Mr. Nikhil Mehta, Advs.

AND

TEST.CAS. 47/2010 & IA No.11564/2011 (u/S 276 of Indian Succession Act)

RAKESH SEHGAL

..... Petitioner

Through: Mr. S.K. Sharma, Mr. Rajt Wadhwa and Mr. Nikhil Mehta, Advs.

Versus

STATE & ANR

..... Respondents

Through: Mr. Rajat Wadhwa and Mr. Nikhil Mehta, Advs.

AND

+ TEST.CAS. 92/2010 & IA No.9911/2016 (for directions)

RAVINDER KUMAR

..... Petitioner

Through: Mr. Rajat Wadhwa and Mr. Nikhil Mehta, Advs.

Versus

STATE & ORS

..... Respondents

Through: Mr. S.K. Sharma, Mr. Rajt Wadhwa and Mr. Nikhil Mehta, Advs.

AND

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TEST.CAS. 12/2011
RAVINDER KUMAR

..... Petitioner

Through: Mr. Rajat Wadhwa and Mr. Nikhil
Mehta, Advs.

Versus

STATE & ORS

..... Respondents

Through: Mr. S.K. Sharma, Mr. Rajt Wadhwa
and Mr. Nikhil Mehta, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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13.12.2017

1. These connected matters, in which recording of evidence is under way, are listed today in terms of office noted dated 11th December, 2017.
2. The office note dated 11th December, 2017 in turn is based on the proceedings of 4th December, 2017 before the Court Commissioner appointed for recording evidence.
3. The Court Commissioner ordered the matters to be placed before this Court owing to the controversy that, owing to the admitted mismatch of exhibit marks in the affidavit by way of examination-in-chief and those put on the documents, while one counsel insisted for fresh affidavit to be filed, the other counsel opposed.
4. The counsel who opposed before the Court Commissioner today states that he will within one week from today file a fresh affidavit and supply advance copy thereof to the other counsel.
5. The controversy thus stands resolved.
6. On enquiry, it is stated that there is no date before the Court Commissioner.

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7. Though the controversy stands resolved but I clarify that the matters ought not to be ordered to be listed before the Court in such a fashion defeating the purpose of relegating the recording of evidence to the Court Commissioner. Once the request for filing of fresh affidavit was not agreed to by the other party, the Court Commissioner is required to proceed with the recording of cross-examination noting the objection as is the mandate of Order XVIII Rule (4)(4) of the Code of Civil Procedure, 1908.
8. The counsels state that recording of evidence is unlikely to be completed by 8th February, 2018.
9. The date of 8th February, 2018 before the Court is cancelled.
10. To be listed, after the recording of evidence is completed.

RAJIV SAHAI ENDLAW, J.

DECEMBER 13, 2017

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