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

+ TEST.CAS. 37/2017

MRS. MEGHA KAKKAR NEE SETH

..... Petitioner

Through: Mr. Rajedhwar K. Gupta, Adv. (mobile
no. 9873576770)

versus

STATE

..... Respondent

Through: Mr. Atul Nigam, Adv. for R-2 and 3
(mobile no. 9810049589)

CORAM:

**MS. TWINKLE WADHWA (DHJS), JOINT REGISTRAR
(JUDICIAL)**

**Case received from the Court of Sh. Rakesh Pandit, J.R. (Judl.)
who is stated to be on leave today**

ORDER

% **19.02.2020**

**IA no. 1772/2020 (application u/O 16 R 1, 2 & 6 r/w section 151
CPC)**

As per list of witnesses filed on record by respondent no. 2 and 3, witnesses at sl. No. 1 & 2 are formal witnesses. It is submitted by Ld. Counsel for petitioner that he has no objection with respect to these two witnesses and the same may be allowed. Hence allowed.

As far as third witness Mr. Subhash Pasrija is concerned, it submitted by Ld. Counsel for applicant that in order to prove his Will he may be permitted to summon this witness. However, it is submitted by ld. Counsel for petitioner that the Will which is propounded by respondent no. 2 and 3 has already been exhibited through this witness when he was called as Plaintiffs witness during

cross-examination, as he is witness to the Wills of both the parties. Hence there is no need to summon this witness again.

I have heard both the counsels and gone through the record.

It is correct that to prove the Will, the parties must examine witnesses to the Will. However the Will of the respondent no. 2 has already been exhibited through this witness during cross-examination, when he was summoned as Petitioners witness. If this witness is not summoned, right of the petitioner to cross-examine this witness qua the Will propounded by respondent no. 2 and 3 going to be affected.

Hence on being asked from the Ld. Counsel for the petitioner in the Court whether he wishes to cross-examine this witness qua the Will dated 22.05.2012 propounded by respondent no. 2 and 3, it is submitted by Ld. Counsel for petitioner that he does not wish to cross-examine this witness on this aspect.

In the circumstances as this Witness has already admitted his signatures on the Will dated 22.05.2012 and Counsel for petitioner is not seeking to cross examine this witness qua the Will dated 22.05.2012, there is no need to summon this witness again. Hence this witness need not to be summoned.

Application is accordingly disposed off.

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Put up for examination and cross-examination of Vikas Sethi before the concerned JR on 24.04.2020.

**TWINKLE WADHWA (DHJS)
JOINT REGISTRAR (JUDICIAL)**

FEBRUARY 19, 2020/NR