



Plaintiff invited my attention to the order dated 18/04/2017 passed by the Hon'ble Supreme Court in Transfer Petition (Civil) No.1134 of 2014 filed by Manmohan Kaur Oberio one of the Defendants herein, before the Hon'ble Supreme Court which Transfer Petition was dismissed by the Bench of the Hon Justice S A Bobde and Hon'ble Justice L Nageswara Rao. He also invited my attention to various orders passed by this Court in this Testamentary Suit and submits that the application filed by the Defendants for adjournment have been rejected by this court from time to time. He submits that the witnesses of Plaintiff are Senior Citizens and have to be examined by the Plaintiff and thus no adjournment shall be granted by this Court. He submits that the testamentary suit can be proceeded with irrespective of the fact that the partition suit is filed by the Defendants before the Delhi High Court is pending.

4           A perusal of the order dated 18/04/2017 passed by the Hon'ble Supreme Court in Transfer Petition No.1134 of 2014 clearly indicates that the said Transfer Petition has already been dismissed by the Hon'ble Supreme Court.

5           On 26/11/2018 when this suit was placed for directions the learned counsel appearing for the Defendant Nos.1 and 2 applied for adjournment on the ground that the Defendant Nos.1 and 2 had decided to file an application before this Court interalia praying for dismissing the

testamentary suit on various grounds. It was further stated that the Defendants were not agreeable for recording of evidence before the learned Court Commissioner. By the said order dated 26/11/2018 after referring to earlier orders passed by this Court, this Court refused to grant any adjournment to the Defendants and directed the parties to proceed with for recording of evidence before the learned Court Commissioner. The Defendants did not proceed with the evidence before the learned Court Commissioner and filed Transfer Petition before the Hon'ble Supreme Court.

6           At this stage this Court is not informed as to whether all these facts were brought to the notice of the Hon'ble Supreme Court by the Defendants or not or were disclosed in the Transfer Petition filed by the Defendants. The learned counsel appearing for the Defendant Nos. 1 and 2 today is unable to produce the copy of the Transfer Petition filed by her client before the Hon'ble Supreme Court.

7           However, in view of the fact that the Hon'ble Supreme Court issued notice by order dated 04/01/2019, the Plaintiff herein may appear before the Hon'ble Supreme Court for appropriate directions. Office is directed to place this matter for directions on 18/02/2019. Place the pending notice of motion filed by the Defendants on the said date.

**[R. D. DHANUKA, J]**