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

Date of decision: 21st March, 2014.

\+ **FAO 42/2011**

DHRUV DAYAL GUPTA & ANR ..... Appellants

Through: Mr. Pradeep Diwan, Sr. Adv. with Mr. Mohit Gupta, Ms. Vidhi Gupta and Ms. Alka Chojar, Advocates.

Versus

SATYAWATI DEVI AGGARWAL ..... Respondent

Through: Mr. Amit Bansal and Ms. Ritika Nagpal, Advocates.

AND

\+ **RFA 146/2011**

DHRUV DAYAL GUPTA ..... Appellant

Through: Mr. Pradeep Diwan, Sr. Adv. with Mr. Mohit Gupta, Ms. Vidhi Gupta and Ms. Alka Chojar, Advocates.

Versus

HCL INFOSOLUTIONS LTD. & ORS ..... Respondents

Through: Mr. Amit Bansal and Ms. Ritika Nagpal, Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. FAO No.42/2011 impugns the judgment/order dated 27th September, 2010 of the Court of the Additional District Judge (ADJ)-VI (Central), Delhi dismissing the objections preferred by the appellants Dhruv Dayal Gupta and Ishwar Dayal Gupta in Probate Case No.39/2006 and granting

probate to the respondent Smt. Satyawati Devi Aggarwal of the Will dated 22nd December, 1995 of her mother late Smt. Jwala Devi. RFA No.146/2011 impugns the judgment and decree also dated 27th September, 2010 of the same ADJ holding that the appellant Sh. Dhruv Dayal Gupta had failed to prove that late Smt. Jwala Devi had executed a Will dated 27th October, 1997 and was hence not entitled to recover any rent from the respondents No.1 & 2 namely M/s HCL Infosolutions Ltd. and HCL Infosystems Ltd. of property No.M-41, Greater Kailash-II, Commercial Complex, New Delhi earlier owned by Smt. Jwala Devi and resultantly dismissing PC No.99/2006 filed by the appellant Sh. Dhruv Dayal Gupta.

2. Notice of both the appeals was issued and vide order dated 8th March, 2011 in RFA No.146/2011, the keys of the property No.M-41, Greater Kailash-II and the money, both lying deposited in the Trial Court were directed to remain in the Trial Court only. FAO No.42/2011 was admitted for hearing on 13th July, 2011 and the Trial Court records were requisitioned. Vide order dated 13th July, 2011 in RFA No.146/2011, the earlier interim order was confirmed. PC No.99/2006 from which RFA No.146/2011 arises was dismissed for the reason of the appellant therein having failed to examine either of the two attesting witnesses to the Will

dated 27th October, 1997 of Smt. Jwala Devi. Vide consent order dated 14th November, 2011 in the said RFA No.146/2011, it was agreed that the appellant Sh. Dhruv Dayal Gupta be granted an opportunity to lead evidence in this Court of one or both attesting witnesses to the Will dated 27th October, 1997. The appellant Sh. Dhruv Dayal Gupta thereafter examined both the witnesses in this Court and who have been cross-examined by the counsel for Smt. Satyawati Devi Aggarwal, who is the respondent No.3 in the RFA. Smt. Satyawati Devi Aggarwal has not lead any evidence in opposition, though opportunity therefor also was granted. Since common evidence had been recorded before the trial Court in both the proceedings, RFA No.146/2011 and FAO No.42/2011 though earlier pending before different Benches of this Court as per Roster, were vide order dated 14th November, 2011 in FAO No.42/2011, directed to be listed before the same Bench. The senior counsel for the appellants Sh. Dhruv Dayal Gupta and Sh. Ishwar Dayal Gupta and the counsel for the respondent Smt. Satyawati Devi Aggarwal have been heard.

3. Smt. Satyawati Devi Aggarwal on or about 13th October, 1998 instituted the petition (from which FAO No.42/2011 arises) under Section 276 of the Indian Succession Act, 1925 seeking probate of the Will dated

22nd December, 1995 of Smt. Jwala Devi, pleading:

(i) that Smt. Jwala Devi wife of late Sh. Ram Swaroop Gupta had died at Delhi on 23rd December, 1997;

(ii) that Smt. Satyawati Devi Aggarwal was the daughter of the said Smt. Jwala Devi;

(iii) that since Smt. Jwala Devi had no son, she and her husband Sh. Ram Swaroop Gupta adopted Sh. Ishwar Dayal Gupta who was the natural son of Smt. Satyawati Devi Aggarwal and her husband Sh. Dharamsheel Aggarwal; that thus Sh. Ishwar Dayal Gupta, though the natural son of Smt. Satyawati Devi Aggarwal, became the brother of Smt. Satyawati Devi Aggarwal;

(iv) that Smt. Jwala Devi had left a registered Will dated 22nd December, 1995 whereunder property No.M-41, Greater Kailash-II, Commercial Complex, New Delhi was bequeathed to Smt. Satyawati Devi Aggarwal; however in the schedule of assets left by Smt. Jwala Devi annexed to the petition, several other movable and immovable properties were shown and it was pleaded that out of all of those properties, only property

No.M-41, Greater Kailash had been bequeathed to Smt. Satyawati Devi Aggarwal.

4. Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta son of Sh. Ishwar Dayal Gupta filed objections to the probate petition filed by Smt. Satyawati Devi Aggarwal, pleading:

(a) that Smt. Jwala Devi had left a validly executed last Will dated 27th October, 1997 registered on 24th December, 1997, whereunder she had bequeathed property No.M-41, Greater Kailash-II as well as certain other properties to Sh. Dhruv Dayal Gupta;

(b) that Sh. Dhruv Dayal Gupta had been dealing with the said properties to the knowledge of Smt. Satyawati Devi Aggarwal;

(c) that Smt. Jwala Devi had let out property No.M-41, Greater Kailash-II to M/s HCL Infosystems Ltd.; that after the demise of Smt. Jwala Devi, on the asking of the objectors, the said tenant attorned to Sh. Dhruv Dayal Gupta as landlord and also started paying rent to him but subsequently defaulted; that Smt. Satyawati Devi Aggarwal never asked the said tenant to attorn to her and never claimed rent from the tenant;

(d) denying that Smt. Jwala Devi had executed or got registered the Will dated 22nd December, 1995;

(e) that Sh. Ishwar Dayal Gupta as the son of Smt. Jwala Devi was in the lifetime of Smt. Jwala Devi also, looking after all her properties and there was no reason for Smt. Jwala Devi to bequeath the property No.M-41, Greater Kailash to Smt. Satyawati Devi Aggarwal;

(f) that Smt. Satyawati Devi Aggarwal had forged and fabricated the Will dated 22nd December, 1995;

(g) that while the first and the second pages of the Will dated 22nd December, 1995 purported to bear the signatures as well as thumb impression of Smt. Jwala Devi, the third page bore only her signatures in Hindi language;

(h) that Smt. Jwala Devi could not write in the year 1995 due to loss of eyesight and used to put thumb impression only; that as such the Will dated 22nd December, 1995 showing the signatures of Smt. Jwala Devi was forged;

(i) that it appears that Smt. Satyawati Devi Aggarwal had obtained the thumb impression of Smt. Jwala Devi to fabricate the Will

dated 22nd December, 1995;

(j) that Smt. Jwala Devi and her husband Sh. Ram Swaroop had already given a lot to Smt. Satyawati Devi Aggarwal at the time of her marriage and thereafter also from time to time and there was no question of their having given anything to Smt. Satyawati Devi Aggarwal in their Will when they had adopted Sh. Ishwar Dayal Gupta as their son;

(k) that the Will dated 22nd December, 1995 was shown to have been signed by the witness on 21st December, 1995;

(l) that the name and full address of the second witness was not shown on the Will;

(m) per contra, the Will dated 27th October, 1997 was witnessed by Sh. Mangat Ram, a confidant of Smt. Jwala Devi and Sh. Prem Chand working with Smt. Jwala Devi and having long association with the family;

(n) that had Smt. Jwala Devi executed the Will dated 22nd December, 1995, she would have mentioned the same in her last Will dated 27th October, 1997;

(o) that Smt. Satyawati Devi Aggarwal inspite of being aware of the Will dated 27th October, 1997, did not disclose the same in the petition.

5. Needless to state that Smt. Satyawati Devi Aggarwal in her reply to the objections aforesaid controverted the contents thereof and also denied that Smt. Jwala Devi executed any Will dated 27th October, 1997 or that Smt. Satyawati Devi Aggarwal had knowledge thereof. It was further pleaded that one of the attesting witnesses of the Will dated 22nd December, 1995 was the brother of Smt. Jwala Devi residing in the neighbourhood and the other, a close friend. It was further pleaded that Sh. Prem Chand witness to the Will dated 27th October, 1997 was an employee of Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta and it was denied that the other witness Sh. Mangat Ram was a confidant of Smt. Jwala Devi.

6. PC No.99/2006 from which RFA No.146/2011 arises, was originally filed in this Court as a suit, on 16th November, 1999, under Order 37 of the Civil Procedure Code (CPC), 1908, by Sh. Dhruv Dayal Gupta against M/s HCL Infosolutions Ltd. and M/s HCL Infosystems Ltd., only for recovery of Rs.13,41,925/-, pleading:

(I) that Smt. Jwala Devi grandmother of Sh. Dhruv Dayal Gupta was owner/landlady of property No.41, Greater Kailash-II, New Delhi;

(II) that Smt. Jwala Devi through her attorney Sh. Ishwar Dayal Gupta had leased out the basement, ground, mezzanine and first floor portions of the said property to M/s HCL Frontline Solutions Bombay Ltd. vide registered Lease Deed dated 16th March, 1995;

(III) that during continuation of the lease, it was informed that the name of M/s HCL Frontline Solutions Bombay Ltd. had been changed to M/s HCL Infosolutions Ltd. and it was subsequently learnt that the assets and liabilities of M/s HCL Infosolutions Ltd. had been taken over by M/s HCL Infosystems Ltd.;

(IV) that Smt. Jwala Devi expired on 23rd December, 1997 leaving behind a Will dated 27th October, 1997 whereunder Sh. Dhruv Dayal Gupta had become the sole owner of the said property;

(V) that the aforesaid fact was communicated to M/s HCL Infosolutions Ltd.;

(VI) that M/s HCL Infosolutions Ltd. had paid rent upto August, 1998 only and had failed to pay rent for the period with effect from September, 1998 on the ground that Smt. Satyawati Devi Aggarwal was also making a claim for rent.

accordingly, the suit for recovery of arrears of rent and interest thereon was filed.

7. Smt. Satyawati Devi Aggarwal sought impleadment in the suit aforesaid.

8. The tenant M/s HCL Infosolutions Ltd., in response to the suit, pleaded that they had vacated the premises but there was a dispute about the person entitled to the property and for which reason they had been unable to surrender possession and admitting that rent from 1st April, 1999 was also due and showing willingness to deposit the same in the Court.

9. Vide order dated 30th August, 2000 in the suit, the tenant was permitted to deposit the keys of the property as well as the rent admittedly due in the Court. The keys as well as the amount of Rs.15,39,740/- was deposited in this Court. Vide subsequent order dated 29th October, 2002, the application of Smt. Satyawati Devi Aggarwal for impleadment in the said suit was allowed. FAO (OS) No.10/2003 preferred by Sh. Dhruv Dayal

Gupta against the said order was dismissed on 23rd April, 2003.

10. The said suit in or about December, 2003, upon change in pecuniary jurisdiction of the Courts in Delhi, was transferred to the District Court.

11. The tenant M/s HCL Infosolutions Ltd. made an application for deposit of another month's rent in the Court which was allowed vide order dated 26th April, 2005 of the learned ADJ and in pursuance thereto a further sum of Rs.1,56,400/- was deposited in the District Court. The tenant having deposited the keys of the premises as well as the rent due from it in the Court, Sh. Dhruv Dayal Gupta moved an application for deletion of M/s HCL Infosolutions Ltd. and M/s HCL Infosystems Ltd. from the suit. However no order appears to have been made on the said application and instead the said tenant Companies were proceeded against *ex parte*.

12. On 4th July, 2006, observing that the suit was for recovery of rent which had already been deposited in the Court, only the following issue was framed in the suit:-

> *"Whether the petitioner is entitled to recover interest from respondent no.1&2. If so to what rate and what amount?"*

and the suit posted for evidence. The following additional issue was framed in the suit filed by Shri Dhruv Dayal Gupta on 14th August, 2006:-

"Whether the petitioner is entitled to claim rent for the month of March, 1999?"

13. The following issues were framed in the probate case filed by Smt. Satyawati Devi Aggarwal on 14th August, 2006:-

"(i) Whether the Will dated 22nd December, 1995 is the last valid Will of the testator executed in sound disposing mind? OPP

(ii) Whether Will dated 27th October, 1997 is the valid Will of the testatrix executed in sound disposing mind? OPR

(iii) Relief?"

14. It appears that besides the Probate Case No.39/2006 from which FAO No.42/2011 arises and the suit aforesaid filed by Sh. Dhruv Dayal Gupta for recovery of money from which RFA No.146/2011 arises, a probate case was filed by Sh. Dhruv Dayal Gupta also for probate of the Will dated 27th October, 1997 and all the three cases were pending before the same learned ADJ. The Trial Court record received in RFA No.146/2011 though initially contains order sheet in the suit as well as the pleadings in the suit but the subsequent order sheets are of the said probate case filed by Sh. Dhruv Dayal Gupta. Alternatively, it appears that the proceeding, initially filed as a suit, was converted into PC No.99/2006. That explains why the judgment of the learned ADJ in RFA No.146/2011, though in a suit, bears the number

PC No.99/2006. Also, the judgment appealed in the RFA, being not in a suit but in a probate case, though an FAO and not a RFA ought to have been preferred. However neither counsel during the hearing highlighted the said fact and which otherwise is irrelevant for adjudication of the question entailed in the two proceedings i.e. whether the document dated 22nd December, 1995 or the document dated 27th October, 1997 (or neither of them) is the validly executed last Will of Smt. Jwala Devi. It may further be mentioned that the record also shows that on 2nd August, 2010 the counsel for Smt. Satyawati Devi Aggarwal as well as the counsel for Sh. Dhruv Dayal Gupta made a statement that the evidence already led by the parties in probate petition filed by Smt. Satyawati Devi Aggarwal be read as evidence in the suit filed by Sh. Dhruv Dayal Gupta.

15. The learned ADJ allowed Probate Case No.39/2006 filed by Smt. Satyawati Devi Aggarwal, finding/observing/holding:-

A. that the objectors Sh. Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta had not examined either of the attesting witnesses to the Will dated 27th October, 1997 and had thus failed to prove that the document dated 27th October, 1997 was the Will of Smt. Jwala Devi;

B. that Smt. Satyawati Devi Aggarwal examined one of the attesting witnesses to the Will dated 22nd December, 1995 namely Sh. Gian Prakash who was the brother of Smt. Jwala Devi;

C. Sh. Gian Prakash deposed, (i) that Smt. Jwala Devi did nothing without consulting him; (ii) that both of them frequently visited each other; (iii) that he had prepared the Will dated 22nd December, 1995 on repeated asking of Smt. Jwala Devi; (iv) that Smt. Jwala Devi had signed the said Will on 22nd December, 1995 in the presence of 3/4 persons; (v) that he identified his signatures on the Will and also identified the signatures of the second witness; (vi) that both himself and the other witnesses were present when Smt. Jwala Devi signed the Will; (vii) that Smt. Jwala Devi was active and in sound disposing mind at that time; (viii) that he had read over the entire Will to her by translating the same in Hindi before it was signed and Smt. Jwala Devi accepted having understood the contents of the Will; and, (ix) that they, thereafter on the same day, went to the Office of the Sub Registrar for registration of

the Will where their signatures and thumb impressions were obtained;

D. Smt. Satyawati Devi Aggarwal also examined a handwriting expert who, on comparison with the admitted signatures of Smt. Jwala Devi, deposed that the signatures on the Will dated 22nd December, 1995 were of Smt. Jwala Devi;

E. Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta proved a Power of Attorney executed by Smt. Jwala Devi in favour of Sh. Ishwar Dayal Gupta; they in their own testimony deposed on the line of their objections and also examined a neighbour who deposed that Smt. Jwala Devi used to tell that she wanted to give her all properties to her son Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta as well as a handwriting expert who deposed that the signatures on the document dated 22nd December, 1995 were not by Smt. Jwala Devi;

F. that though it was the case of the objectors Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta that the execution of the Will dated 22nd December, 1995 was surrounded by suspicious circumstance but a mere mentioning of a number on the first

page of the Will and which had no bearing to the Will, could not be treated as a suspicious circumstance;

G. that Sh. Gian Prakash aforesaid in his evidence had explained that the other witness Sh. Rameshwar Dass had also signed on 22nd December, 1995 but by mistake had written the date under his signature as 21st December, 1995 and there was no reason to disbelieve him particularly when there was no evidence to establish that the other witness Sh. Rameshwar Dass signed the Will on 21st December, 1995;

H. that since the Will dated 22nd December, 1995 bears photograph of Smt. Jwala Devi, the gap on the third page of the Will between the signatures and thumb impression of Smt. Jwala Devi was not enough to create a doubt;

I. that Sh. Ishwar Dayal Gupta had also admitted that Smt. Jwala Devi was in a sound disposing mind on 22nd December, 1995; and,

J. that the Will dated 22nd December, 1995 was thus validly executed by Smt. Jwala Devi and there was no evidence that Smt. Jwala Devi had executed any Will thereafter.

accordingly the petition was allowed and probate of the Will dated 22nd December, 1995 was granted.

16. The senior counsel for the appellants Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta has argued:-

I. that now that evidence has been led to prove the Will dated 27th October, 1997, if the same is held to be proved, the Will dated 22nd December, 1995 would in any case be irrelevant;

II. that Smt. Satyawati Devi Aggarwal had failed to lead any evidence in rebuttal to the Will dated 27th October, 1997;

III. that Sh. Ishwar Dayal Gupta in his examination-in-chief by way of affidavit in Probate Case No.39/2006 has given the reason for the inequal treatment by Smt. Jwala Devi in her Will dated 27th October, 1997 to her daughter Smt. Satyawati Devi Aggarwal by stating that Smt. Jwala Devi and her husband had during their lifetime given a lot to Smt. Satyawati Devi Aggarwal not only at the time of her marriage but also at the time of taking her son in adoption and thereafter from time to time;

IV. that Sh. Gian Prakash, witness to the Will dated 22nd December, 1995 in his cross examination recorded on 20th March, 2007 admitted having not disclosed to Sh. Ishwar Dayal Gupta and his family that he was in possession of the Will dated 22nd December, 1995 of Smt. Jwala Devi;

V. reliance is placed on ***Kunwar Surendra Bahadur Singh Vs. Thakur Behari Singh*** AIR 1939 Privy Council 117 to contend that Sub Registrar is not an attesting witness;

VI. that Sh. Rameshwar Dass the other attesting witness to the Will dated 22nd December, 1995 who is stated to have mistakenly written the date as 21st December, 1995 instead of 22nd December, 1995, was not produced;

VII. Sh. Rameshwar Dass did not come to the Sub Registrar's Office also for registration of the Will;

VIII. that Sh. Gian Prakash in his cross examination recorded on 20th March, 2007 admitted that white fluid had been used in the Will dated 22nd December, 1995 at three different places;

IX. that it was suggested to Sh. Gian Prakash in the cross examination recorded on 20th March, 2007 that the signatures of Sh. Rameshwar Dass were obtained on blank paper on 21st December, 1995 and the said paper was converted into a Will on 22nd December, 1995;

X. that when Smt. Jwala Devi in her lifetime only had left the management of the property to Sh. Ishwar Dayal Gupta, it is inconceivable that she would not leave the said property to him or his son Sh. Dhruv Dayal Gupta and leave the same after her death to Smt. Satyawati Devi Aggarwal;

XI. that Smt. Satyawati Devi Aggarwal knew of the Will of 22nd December, 1995 within 15 days of the demise on 23rd December, 1997 of Smt. Jwala Devi but claimed under the Will dated 22nd December, 1995 for the first time only in April, 1998;

XII. that the Will dated 27th October, 1997 bears the thumb impression only of Smt. Jwala Devi, because of trembling in her hand; and,

XIII. that the Will dated 27th October, 1997 has been proved to be the Will of Smt. Jwala Devi.

17. The counsel for Smt. Satyawati Devi Aggarwal has contended:-

(a) that Sh. Mangat Ram witness to the Will dated 27th October, 1997 in his cross examination recorded before this Court on 16th May, 2012 has deposed that Smt. Jwala Devi, till her death, could sign in her own hand and has further admitted that he was not witness to any documents executed by Smt. Jwala Devi;

(b) however the Power of Attorney executed by Smt. Jwala Devi in favour of Sh. Ishwar Dayal Gupta is also witnessed by the said Sh. Mangat Ram and the wife of Sh. Ishwar Dayal Gupta and which shows that the said Sh. Mangat Ram witness to the Will propounded by Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta is a confidant of Shri Ishwar Dayal Gupta;

(c) per contra the witnesses to the Will propounded by Smt. Satyawati Devi Aggarwal were closer to Smt. Jwala Devi;

(d) that the said Sh. Mangat Ram in his cross examination recorded on 31st August, 2012 could not even tell whether Sh. Kanwar Sain (draftsman of the Will dated 27th October, 1997) has his office at Pitampura Sub Registrar's office where the said Will is registered;

(e) that Sh. Mangat Ram in his cross examination recorded on 31st August, 2012 deposed that he was not told the purpose of his visit to Pitampura till after reaching there and which is unnatural;

(f) that Sh. Mangat Ram in his cross examination recorded on 15th October, 2012 has admitted to Smt. Satyawati Devi Aggarwal having cordial relations with Smt. Jwala Devi and to the frequent visits and even stay of Smt. Satyawati Devi Aggarwal to/with Smt. Jwala Devi;

(g) that Sh. Prem Chand Goyal the other witness to the Will dated 27th October, 1997 also in his cross examination recorded on 3rd December, 2012 has admitted meeting Smt. Jwala Devi at her residence only about one month prior to her death;

(h) the said Sh. Prem Chand Goyal also, in his cross examination recorded on 3rd December, 2012, has admitted that Smt. Satyawati Devi Aggarwal often used to visit with Smt. Jwala Devi;

(i) Sh. Prem Chand Goyal in his cross examination recorded on 3rd December, 2012 has further deposed that Sh. Kanwar Sain (draftsman of the Will dated 27th October, 1997) used to work at his shop at Naya Bazar as a Grain Merchant;

(j) the said Sh. Prem Chand Goyal in the cross examination recorded on 3rd December, 2012 deposed that he could not identify the signatures of Smt. Jwala Devi as he had not seen her signing though further admitted that she used to sign also;

(k) that the very fact that the Will dated 27th October, 1997 was got registered at the office of the Sub Registrar, Pitampura instead of at the office of Sub Registrar at INA Vikas Sadan, Mehrauli, Asaf Ali Road or at Kashmere Gate which are nearer than Pitampura to the then

residence of Smt. Jwala Devi, creates a doubt;

(l) that Sh. Prem Chand Goyal in his cross examination recorded on 3rd December, 2012 also admitted that the other offices of the Sub Registrar were nearer to the residence of Shri Jwala Devi and deposed that the Will dated 27th October, 1997 was got registered at Pitampura because Sh. Kanwar Sain used to sit in the office of the Sub Registrar at Pitampura;

(m) that the Will dated 22nd December, 1995 propounded by Smt. Satyawati Devi Aggarwal is equitable vis-a-vis the Will dated 27th October, 1997 propounded by Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta;

(n) that the Will dated 22nd December, 1995 is written by the brother of Smt. Jwala Devi who had no interest in the matter while the Will dated 27th October, 1997 is written by a stranger Sh. Kanwar Sain with whom Smt. Jwala Devi had no linkage and who was sitting in a shop in the same market as the shop of Sh. Ishwar Dayal Gupta;

(o) that no reason has been put forth for which Smt. Jwala Devi would change her mind between the years 1995-1997;

(p) that if both the Wills are disbelieved, even then Smt. Satyawati Devi Aggarwal would have half share in the entire estate of Smt. Jwala Devi;

(q) that even Sh. Ishwar Dayal Gupta in his cross examination recorded on 28th January, 2009 in Probate Case No.39/2006 from which FAO No.42/2011 arises admitted that Smt. Satyawati Devi Aggarwal used to meet her parents regularly and was more close to her mother Smt. Jwala Devi than to her father and that Smt. Satyawati Devi Aggarwal even then used to stay at night at her mother's place and that her relations with the mother Smt. Jwala Devi remained cordial till the death of Smt. Jwala Devi;

(r) that Sh. Ishwar Dayal Gupta claims that he did not know of the Will dated 27th October, 1997 till the demise of Smt. Jwala Devi and which is again unnatural as Smt.

Jwala Devi, if had executed the Will dated 27th October, 1997 would have told Sh. Ishwar Dayal Gupta of the same;

(s) that the Will dated 27th October, 1997 does not bear the signatures of Smt. Jwala Devi and only her thumb impression;

(t) that the Will dated 22nd December, 1995 is registered at Kashmere Gate;

(u) that both the witnesses to the Will dated 27th October, 1997 are employees of Sh. Ishwar Dayal Gupta;

(v) that Sh. Kanwar Sain the author of the Will dated 27th October, 1997 has not been produced;

(w) that even under the 1995 Will, Smt. Jwala Devi has given the New Friends Colony house, her share in the partnership business in Sahibabad, land at Faridabad, her 1/3rd share in the land in Fazilpur, her land at Kundli as well as her share in the partnership firm in Delhi to Sh. Ishwar Dayal Gupta and only the property No.M-41, Greater Kailash-II, to Smt. Satyawati Devi Aggarwal;

(x) on the contrary under the Will dated 27th October, 1997 only a sum of Rs.1 lac has been given to Smt. Satyawati Devi Aggarwal and sums of Rs.50,000/- each to her other son and daughter;

(y) there was no reason for Smt. Jwala Devi between the years 1995-1997, to instead of bequeathing the property No. M-41, Greater Kailash-II, bequeathing only Rs.1 lac to Smt. Satyawati Devi Aggarwal especially since the said property at that time was fetching a rent of Rs.1.8 lacs per month;

(z) that though it is stated that Sh. Kanwar Sain the author of the Will dated 27th October, 1997 was dead but no evidence to the said effect was led;

(aa) that Sh. Ishwar Dayal Gupta has not pleaded any suspicious circumstance with respect to the Will dated 22nd December, 1995 and the only challenge is to proof thereof;

(ab) that Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta have not given any explanation as to why Sh. Gian

Prakash being the brother of Smt. Jwala Devi would depose against them and/or collude with Smt. Satyawati Devi Aggarwal;

(ac) Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta have in cross examination of the witnesses of Smt. Satyawati Devi Aggarwal given conflicting suggestions regarding the health of Smt. Jwala Devi; and,

(ad) attention is invited to Section 71 of the Indian Succession Act, 1925 to contend that no obliteration, interlineation or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will have been thereby rendered illegible or undiscernible, unless such alteration has been executed in like manner as required for execution of the Will.

18. I had after the conclusion of the hearing on 13th November, 2013 enquired from the senior counsel for the appellants Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta whether they, in the event of being held to be unsuccessful in proving the Will dated 27th October, 1997, still challenge the

Will dated 22nd December, 1995 in as much as the effect of the said challenge succeeding would be, intestacy of Smt. Jwala Devi Gupta, and in which case her entire estate would be succeeded to equally by Smt. Satyawati Devi Aggarwal and Sh. Ishwar Dayal Gupta.

19. The senior counsel for the appellants Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta after taking instructions stated that the appellants, independently of propounding the Will dated 27th October, 1997 were also challenging the Will dated 22nd December, 1995, even after knowing and understanding the consequences of such challenge to the Will dated 22nd December, 1995 succeeding.

20. Though opportunity thereafter also was given to the parties to arrive at an amicable settlement but without any result.

21. M/s HCL Infosolutions Ltd. and M/s HCL Infosystems Ltd. have not appeared in these appeals also. In any case they were impleaded merely for the reason of being then a tenant in possession of property No. M-41, Greater Kailash-II, Commercial Complex, New Delhi and being liable for rent thereof. Since then M/s HCL Infosolutions Ltd. and M/s HCL Infosystems Ltd. have vacated the property and deposited the keys thereof as well as the rent till the date of occupation, in the Court. Though in the

proceedings from which RFA No.146/2011 arises issues as to the claim of Sh. Dhruv Dayal Gupta towards rent for the month of March, 1999 and for interest, were also framed but neither has the learned ADJ given any finding in that regard nor has the counsel for the appellants argued anything in that respect.

22. Thus the only question for adjudication is, whether the document dated 22nd December, 1995 or the document dated 27th October, 1997 or neither of them are validly executed last Will of Smt. Jwala Devi.

23. A perusal of the Will dated 22nd December, 1995 shows Sh. Gian Prakash, brother of Smt. Jwala Devi and witness to the said Will to be the former Comptroller and Auditor General of India. The Will, besides bearing the signatures of Sh. Gian Prakash and Sh. Rameshwar Dass as witnesses, also bears the stamp and signatures of Sh. G.S. Tomar, Advocate and records the presence, at the time of registration thereof, of Sh. Gian Prakash and Sh. G.S. Tomar as witnesses to the registration. The senior counsel for Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta is thus not right in contending that the Will dated 22nd December, 1995 is attested by one witness only, for the question of, whether the Registration Officer can be a attesting witness to be gone into, though the said question has been

discussed by me in Judgment dated 18th November, 2013 in RFA No. 450/2010 titled ***Manmohan vs. Baldev Raj*** and it has been held that the Registration Officer can be a attesting witness. I may also notice that the Will dated 27th October, 1997 propounded by Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta is also similarly, though witnessed by Sh. Mangat Ram and Sh. Prem Chand, bears the stamp of Sh. R.R. Bhardwaj, Advocate and the witness to the registration thereof also are shown as Sh. Mangat Ram and said Sh. R.R. Bhardwaj, Advocate and not Sh. Prem Chand.

24. Though, the first page of the Will dated 22nd December 1995 bears a handwritten number "DL/06/064/234378 dt.15.2.95" which has gone unexplained, but I am unable to hold that as a reason for disbelieving the Will or as casting any doubt thereon especially when no suspicious circumstance therefrom or effect thereof has been pleaded, proved or argued. It is well nigh possible that the said number was written by somebody in the registration office or by somebody who had thereafter taken delivery of the said Will from the registration office.

25. Though one of the objections of Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta was/is that while the first two pages of the Will dated 22nd December 1995 bear the signature as well as thumb impression of Smt.

Jwala Devi, the third page bears only her signature in Hindi language but the third page of the Will also is found to bear the thumb impression of Smt. Jwala Devi. The said thumb impression, instead of being placed along with the signatures, as on the first two pages, is at a distance and the reason wherefor appears to be so as to be along with the photograph of Smt. Jwala Devi pasted on the said third page. The said objection thus also has no merit.

26. I have perused the testimony of Sh. Gian Prakash and find him to have, in addition to what has already been recorded hereinabove, deposed, that Smt. Jwala Devi was elder to him by 10/12 years and did not used to do anything without consulting him and that they were very frequently visiting each other; that Smt. Jwala Devi never mentioned to him about execution of any subsequent Will; that the Will was typed by a regular typists working for him. He further deposed of the Will being in his custody after registration and his having handed over the Will to Smt. Satyawati Devi Aggarwal after 15 days of the demise of Smt. Jwala Devi. His testimony could not be shaken in cross-examination. He denied the photograph on the Will dated 27th October, 1997 to be of Smt. Jwala Devi. No suggestion was given to him that the photograph on the Will dated 22nd December, 1995 was not of

Smt. Jwala Devi. No suggestion of the reason if any for him to depose in favour of Smt. Satyawati Devi Aggarwal or for being inimical towards Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta, with both of whom he had the same relationship, was given. A reading of his entire testimony, running into twenty-one pages, with separate counsels for Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta cross examining him, has a ring of truth and genuineness rather than of falsehood. Rather, the cross examination by different counsels for Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta who otherwise have a common interest demonstrates an attempt to harass and browbeat the witness who at the time of recording of his evidence was 85 years of age. His deposition commenced on 30th January, 2007 and ended on 20th March, 2007. It is on record that he had come for the purpose of recording of his evidence of a wheelchair.

27. In my opinion, the date of 21st December, 1995 written by Sh. Rameshwar Dass, witness to the Will dated 22nd December 1995, when in fact the Will is shown to be prepared on 22nd December, 1995, is also not such a circumstance as to cast any doubt about the said Will. The suggestion given to Sh. Gian Prakash in cross examination in the said respect and the argument raised before this Court, that the Will was fabricated on a blank

paper got signed from Sh. Rameshwar Dass on 21st December, 1995, is not logical. If the Will was being forged, there was no need to forge the same on a blank paper with signatures of 21st December, 1995 of Sh. Rameshwar Dass who was not even examined as a witness and the signatures of any other person as a witness on 22nd December, 1995 could have been taken. No need, to have Sh. Rameshwar Dass has been explained. I have in Judgment dated 8th January, 2014 in RFA No. 136/2005 titled ***Jai Gopal Sethi vs. Sanjay Sabharwal*** held that such mistakes are more likely in documents executed in the natural course of events, than in documents which are forged and fabricated and which are generally prepared with knowledge of the same being likely to be contested and in preparation whereof utmost care is taken.

28. As far as the use of white fluid at three places on the Will dated 22nd December 1995 is concerned, the said practice was very common in the days of use of manual typewriters. Moreover, the context of the document, where white fluid has been used, is not such so as to create any doubt as to the contents.

29. I have also perused the cross examination by the counsels for Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta of Smt. Satyawati Devi

Aggarwal in the probate case from which FAO No.42/2011 arises. She has admitted that Smt. Jwala Devi had told her of her intent to give the Greater Kailash-II property to her. She admitted that Sh. Mangat Ram witness to the Will dated 27th October, 1997 was the son of Smt. Jwala Devi's 'mausi' but further deposed that he was an employee working in the shop run by Sh. Ishwar Dayal Gupta and Sh. Dhruv Dayal Gupta.

30. It has also come in the cross-examination of Smt. Satyawati Devi Aggarwal that even the original Sale Deed (title documents) of the Greater Kailash-II property was in the custody of Sh. Gian Prakash and was handed over by Sh. Gian Prakash to her along with the Will dated 22nd December, 1995. The conduct of Smt. Jwala Devi, of handing over title documents of the property bequeathed under the Will dated 22nd December, 1995 to Smt. Satyawati Devi Aggarwal to Sh. Gian Prakash, is found by me to be in consonance with her intent to bequeath the said property to Smt. Satyawati Devi Aggarwal. It is not as if title documents of other properties, of which she was admittedly possessed of, were also given to Sh. Gian Prakash. There is no explanation by the Senior counsel for the appellants as to why else the title documents of the said property would be in possession of Sh. Gian Prakash; if not in pursuance to the Will dated 22nd December 1995.

31. It is significant that Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta also admit that Smt. Jwala Devi used to sign; their case is that she had stopped signing 4/5 months prior to her death. Suggestion in that regard given to Sh. Gian Prakash as well as Sh. Satyawati Devi Aggarwal was denied, with Sh. Gian Prakash also stating that though her signature had changed with age but she had signed till the date of her death. Significantly, Sh. Ishwar Dayal Gupta in whose firm Smt. Jwala Devi was a partner, has not produced any document which may have thumb mark instead of signature of Smt. Jwala Devi in 4/5 months prior to her death.

32. Sh. Ishwar Dayal Gupta in his affidavit by way of examination-in-chief, though called the Will dated 22nd December, 1995 as forged and fabricated, nowhere deposed that the signatures thereon were not of Smt. Jwala Devi. Being a partner of Smt. Jwala Devi, he is bound to have seen Smt. Jawla Devi signing and absence of any denial by him of the said signatures, in my opinion leads to only one inference that he was reluctant to expressly deny the said signatures and admitted the same. In cross examination, though he deposed that his relationship with his natural mother Smt. Satyawati Devi Aggarwal was strained but did not give any reason therefor; he admitted that Smt. Jwala Devi was having good sight till her

death and could always sign till she was alive; he further deposed that she was hospitalized 6/7 days before her death. He further deposed that he was not aware of the Will dated 27th October, 1997 and became aware thereof for the first time after one month of the death of Smt. Jwala Devi when Sh. Kanwar Sain, deed writer of Naya Bazar brought the Will and informed of the execution thereof. He however admitted that Sh. Kanwar Sain had never visited the house of Smt. Jwala Devi to meet Smt. Jwala Devi or any of her other family members. He further admitted that the office of the said deed writer was 4/5 shops away from his shop in Naya Bazar. He further admitted that Sh. Mangat Ram as well as Sh. Prem Chand witnesses to the Will dated 27th October, 1997 were his employees at Naya Bazar and even then working for him but deposed that even they did not tell him of the factum of the execution of the said Will by Smt. Jwala Devi.

33. Sh. Ishwar Dayal Gupta & Sh. Dhruv Dayal Gupta also examined one neighbour from New Friends Colony viz. Sh. Rakesh Goyal but need is not felt to refer to his statement.

34. Need is also not felt to discuss the testimonies of handwriting experts examined by the parties.

35. I have also perused the testimony recorded before this Court, of the two witnesses to the Will dated 27th October, 1997.

36. Shri Mangat Ram, in his cross examination, deposed (i) that he was educated up to Xth standard only; (ii) that he was in the employment for 42 years, of the firm in which Shri Ishwar Dayal Gupta was a partner; (iii) that Smt. Jwala Devi was the daughter of his mother's sister; (iv) that Shri Gian Prakash was also the son of his mother's sister and was the Comptroller and Auditor General of India; (v) that he could not say whether Smt. Jwala Devi was more than 80 years of age at the time of her death; (vi) that he could not tell as to how many months prior to the demise, vision of Smt. Jwala Devi had deteriorated; (vii) that Smt. Jwala Devi could sign in her own hand till her death; (viii) that he used to meet Smt. Jwala Devi at her residence only and not at the shop; (ix) that in the year 1997 Mr. Ram Swaroop (witness to the Will dated 22nd December, 1995) had already expired; (x) that he could not tell as to who used to look after the bank accounts or the properties of Smt. Jwala Devi; (xi) that Smt. Jwala Devi had not asked him to become a witness to any other document executed by her; (xii) that Offices of the Sub Registrar at Mehrauli and Kashmere Gate were nearer to the residence of Smt. Jwala Devi at Friends Colony than the Office of the Sub Registrar at

Pitampura; (xiii) that he did not know Shri Kanwar Sain and met him only on the date of execution of the Will; (xiv) that the Will dated 27th October, 1997 was shown by Shri Kanwar Sain to Smt. Jwala Devi at the Office at Pitampura; that he was informed of the purpose of his visit to Pitampura only after reaching the office of Mr. Kanwar Sain at Pitampura; (xv) that he had accompanied Smt. Jwala Devi from her residence to Pitampura in a hired taxi; (xvi) that he did not inform his employer Shri Ishwar Dayal Gupta of having accompanied Smt. Jwala Devi to the Office of the Sub Registrar; (xvii) that he was not aware what was written in the Will; (xviii) that though the Will was read over and explained to Smt. Jwala Devi but he was hard of hearing and sitting at a distance; (xix) that he could not tell whether Shri Kanwar Sain made any endorsement on the Will of having read over and explained the contents thereof to Smt. Jwala Devi; (xx) that he could not tell any reason why Smt. Jwala Devi did not sign the Will; and, (xxi) that Smt. Jwala Devi did not inform him of the Will even while travelling from residence to the Office of the Sub Registrar, Pitampura.

37. Shri Prem Chand Goyal, the other witness to the Will dated 27th October, 1997, in his cross examination deposed, (a) that he was educated till Class Xth; (b) that he did not know the contents of the Will (c); that he

had been working with Shri Ishwar Dayal Gupta since the year 1980; (d) that he had met Smt. Jwala Devi at her residence one month prior to her death; (e) that Shri Kanwar Sain was a Grain Merchant at Naya Bazar but he had no occasion to meet him though he had once gone to Shri Kanwar Sain at the instance of Smt. Jwala Devi to ask Shri Kanwar Sain to make a telephone call to Smt. Jwala Devi; (f) that though Shri Kanwar Sain had talked on telephone to Smt. Jwala Devi in his presence but he did not know about the conversation; (g) that he knew Shri Mangat Ram as he himself and Shri Mangat Ram were working together in the shop of Shri Ishwar Dayal Gupta; (h) that he knew Shri Gian Prakash who was the brother of Smt. Jwala Devi; (i) that he could not identify the signatures of Smt. Jwala Devi as he had not seen her signing though she used to sign also; (j) that though the Offices of the Sub Registrar at Kashmere Gate was nearer to the residence of Smt. Jwala Devi but Shri Kanwar Sain used to sit in the Office of the Sub Registrar at Pitampura and for this reason had called Smt. Jwala Devi to Pitampura; (k) that he had met Shri Kanwar Sain two / three times in connection with the business being carried on by Shri Ishwar Dayal Gupta; (l) that Smt. Jwala Devi had not given instructions to Shri Kanwar Sain to prepare the Will in his presence; and, (m) that in the year 1997 he

was residing also in the shop of Shri Ishwar Dayal Gupta.

38. On appreciation of the evidence on record of the trial court, I am in agreement with the findings returned by the learned Addl. District Judge and the contentions of the counsel for Smt. Satyawati Devi Aggarwal that the document dated 22nd December, 1995 has been proved to be the validly executed Will of Smt. Jwala Devi. In fact, the witnesses examined by the appellants in this Court, have also in their cross examination, supported the circumstances concerning the Will dated 22nd December, 1995.

39. At the same time, on appreciation of the evidence adduced before this Court I am unable to hold Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta to have proved the document dated 27th October, 1997 to be the validly executed Will of Smt. Jwala Devi for the following reasons:-

A. it is the admitted position that Smt. Jwala Devi did not know English language of the document dated 27th October, 1997; though the Will dated 22nd December, 1995 also is in English language but Shri Gian Prakash witness thereto has proved to have read over and explained the contents thereof to Smt. Jwala Devi; on the contrary neither of the two witnesses of the document dated 27th October, 1997 have led any evidence in

that aspect; their version, of Smt. Jwala Devi having instructed Shri Kanwar Sain to draft the same could have been proved by Shri Kanwar Sain only; what to talk of non-examination by Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta of Shri Kanwar Sain, even the factum of his very existence and/or demise or reasons for non-availability have not been proved; it is strange that a grain merchant of Naya Bazar would also be a draftsman at office of Sub-Registrar, Pitampura; in fact, the document dated 27.10.1997 does not also bear any signature or mark of Kanwar Sain; the evidence of Sh. Kanwar Sain was also relevant to prove that he was in custody of the Will and delivered the same to the appellants after the demise of Jawla Devi; it has thus not been proved that the document dated 27th October, 1997 contains the will or dictate of Smt. Jwala Devi;

B. Sh. Mangat Ram has deposed that Smt. Jwala Devi; on 27th October, 1997, went with him to the office of the Sub-Registrar, Pitampura; both he and Sh. Prem Chand Goel have also deposed that when they reached, the Will was ready;

except for the one telephone call between Smt. Jwala Devi and Sh. Kanwar Sain, deposed by Sh. Prem Chand Goel, it has not been established/proved as to when and how Smt. Jwala Devi instructed Sh. Kanwar Sain of the contents of her Will; it is inconceivable that instructions for a detailed document as the document dated 27th October, 1997 could have been given on one phone call;

C. it has not been established that Smt. Jwala Devi knew Shri Kanwar Sain who is stated to be the draftsman of the document dated 27th October, 1997 or had at any earlier point of time got any other work done from him;

D. it has not been established as to why Smt. Jwala Devi would chose to have her Will drafted from Shri Kanwar Sain, a total stranger to her and not involve any of the persons close to her in execution thereof;

E. though both the witnesses to the document dated 27th October, 1997 have admitted that Smt. Jwala Devi used to sign till her demise, as indeed Ishwar Dayal Gupta also admitted in his cross examination recorded on 28th January, 2009 but the

document dated 27th October, 1997 is not signed by her and there is no explanation therefor; non signing of a document, as solemn as a Will, by the person who is alleged to have executed the same and when it is admitted that such person used to sign, raises a serious doubt as to the authenticity of such a document;

F. the entire execution of the document dated 27th October, 1997 is unnatural, contrary to the normal human behaviour and steeped in suspicion ;

G. both the witnesses to the document dated 27th October, 1997 are employees of Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta in whose favour the document dated 27th October, 1997 purported to be a Will is;

H. It is unbelievable that Smt. Jwala Devi, a few months prior to her demise, on her own, without the knowledge of Shri Ishwar Dayal Gupta and their family members with whom she was residing in the same house, could leave the house without their knowledge and have the Will registered;

I the photograph on the Will dated 27th October, 1997 has not been proved to be of Smt. Jwala Devi; nither Sh. Ishwar Dayal Gupta nor Sh. Dhruv Dayal Gupta have chosen to depose so; Sh. Gian Prakash had denied the said photograph to be of Smt. Jwala Devi;

J. the document dated 27th October, 1997 though claimed to have been presented for registration on the same day is stated to have been registered only on 24th December, 1997 i.e after the date of demise of Smt. Jwala Devi on 23rd December, 1997; though the counsel for Smt. Satyawati Devi Aggarwal did not raise the said aspect neither in the cross examination of the witnesses of Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta nor during the arguments but I had listed the matter for directions on the said aspect. The only explanation forthcoming from the senior counsel for Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta is of delay being at the end of the Office of the Sub Registrar, Pitampura; however the said delay also is unnatural; ordinarily the registration of the document is not held up for such a long time; no records

of the Office of the Sub Registrar have been proved;

K. Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta appear to have washed their hands from the execution of the document dated 27th October, 1997 so as to be not accused of involvement in the preparation of the said document or to be accused in fabrication thereof;

L. the witnesses of the document dated 27th October, 1997 are not found to be enjoying the confidence of Smt. Jwala Devi, for her to involve them in execution of a solemn document as Will; and,

M. the hesitation of Shri Ishwar Dayal Gupta and Shri Dhruv Dayal Gupta to prove the document dated 27th October, 1997 is also material; they avoided proving the same when the matter was pending before the learned Addl. District Judge and produced the witnesses thereto who are their employees only, before this Court.

40. The appellant having failed to prove the document dated 27th October, 1997 to be the Will of Smt. Jwala Devi, it has but to be held that the

document dated 22nd December, 1995 is the last Will of Smt. Jwala Devi.

41. There is also no merit in the argument of the senior counsel for the appellants of any delay on the part of Smt. Satyawati Devi Aggarwal in making a claim on the basis of Will dated 22nd December, 1995. In fact the senior counsel also fairly admitted that the delay in staking the claim in April, 1998, after the death on 23rd December, 1997 of Smt. Jwala Devi was not such as to raise any suspicion.

42. Resultantly, both the appeals are dismissed, with exemplary costs of Rs.50,000/- on the appellants payable to Smt. Satyawati Devi Aggarwal within four weeks hereof.

43. Axiomatically the monies as well as the keys, deposited by the erstwhile tenant of the property at Greater Kailash-II in the Court be released forthwith to Smt. Satyawati Devi Aggarwal.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J.

MARCH 21, 2014.
bs/pp/gsr