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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 2706/2012**

ASHISH BHAGAT Plaintiff
Through : Mr. J.K. Chawla, Adv.

versus

VEEN BHAGAT & ORS. Defendants
Through : None

AND

+ **TR.P.(C) 3/2015**

ASHISH BHAGAT Petitioner
Through : Mr. J.K. Chawla, Adv.

versus

VEENA BHAGAT & ORS Respondents
Through : None

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

% **ORDER**
13.08.2015

TR.P.(C) 3/2015 and IA No. 25772/2014

Defendant no. 1 is mother; whereas defendant nos. 2 and 3 are brother and sister of plaintiff. Plaintiff has filed this suit for declaration, partition, rendition of accounts and injunction in respect of the properties left behind by his father Late Shri Keshav Chander Bhagat. Defendant no. 3 is

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supporting the plaintiff. However, defendant nos. 1 and 2 have opposed the partition primarily on the ground that Late Keshav Chander Bhagat had left behind a Will dated 17th July, 2003 bequeathing the properties to the defendant nos. 1 and 2 in respect of his estate.

After filing of the suit, defendant nos. 1 and 2 have filed a Probate Case No. 35/2013 titled Mrs. Veena Bhagat & Anr. Vs. State & Ors., which is pending before Shri Manish Yadhuvanshi, Additional District Judge – 06 (Central), Tis Hazari Courts, Delhi. Plaintiff has filed this transfer petition for withdrawing the probate case from the said court and transfer to the High Court, so that same is tried along with the present suit, in order to avoid any conflicting orders. Learned counsel for the plaintiff has placed reliance on Balbir Singh Wasu vs. Lakhbir Singh and Others, (2005) 12 Supreme Court Cases 503.

Same Will is involved in both the cases, inasmuch as properties involved are also same. Accordingly, in my view, it would be the just and proper if both the cases are tried together by the same Court. Accordingly, Probate Case No. 35/2013 titled Mrs. Veena Bhagat & Anr. Vs. State & Ors., is withdrawn from the court of Shri Manish Yadhuvanshi, Additional District Judge – 06 (Central), Tis Hazari Courts, Delhi and transferred to this

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Court and be tried along with the present suit.

Transfer Petition stands disposed of. Miscellaneous application is disposed of as infructuous.

CS(OS) 2706/2012, Crl. M.A. No. 5017/2013, IA Nos. 16415/2012, 6354/2013, 18834/2013 and 25770-25772/2014

Plaintiff has filed IA No. 18834/2013 under Order 1 Rule 10 CPC for impleading proposed defendant nos. 4 and 5. Proposed defendant no. 4 Shri Ashok Kumar still remains to be served. Notice be issued to the proposed defendant no. 4 through ordinary process, registered A.D. post and courier service, returnable for 11th December, 2015 before the Joint Registrar.


A.K. PATHAK, J.

AUGUST 13, 2015
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