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

+ TEST.CAS. 27/2009

MS.NAMITA DANIA

..... Petitioner

Through : Mr. Nitin Dayal, Advocate

versus

STATE & ANR.

..... Respondents

Through : Siddharth Choudhary with R-2 in
person

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% 24.09.2015

1. The present petition has been filed by the petitioner under Section 276 of the Indian Succession Act, 1925 for grant of a probate of a will dated 14.6.2008 of her father, Lt.Sh.Shyam Sunder Dania.
2. On 6.7.2015, the petitioner had filed an application with the request that a Local Commissioner be appointed for recording the evidence of the petitioner's witnesses. On the basis of the said request, a Local Commissioner was appointed to record the evidence of the petitioner's witnesses and the parties were directed to appear before her on 23.7.2015 and on further dates, as may be fixed by her, for recording the evidence.
3. With these directions, the case was adjourned to 5.11.2015, to await the report of the Local Commissioner.

4. Pursuant thereto, the Local Commissioner had filed a report dated 12.8.2015 stating inter alia that the petitioner had failed to appear herself or through counsel on 23.7.2015 and 11.8.2015 and nor did she pay the fee as fixed by the court. Neither the petitioner, nor her counsel had appeared on 2.9.2015. In the interest of justice, it was deemed appropriate to direct the counsel for the respondent No.2 to give a written intimation of the next date of hearing to the petitioner and place on record proof of intimation.

5. Counsel for the respondent No.2 states that the next date of hearing was duly conveyed to the counsel for the petitioner. Pursuant thereto, learned counsel enters appearance and states that no instructions are being received from his client and for the said reason, he did not appear before the Local Commissioner though a date in that regard was fixed in his presence. He submits that his client has not been contacting him for some time and he has no instructions in the case.

6. It appears that the petitioner is not interested in prosecuting the present petition, which is accordingly dismissed for non-prosecution. The date already fixed stands cancelled.

HIMA KOHLI, J

SEPTEMBER 24, 2015/mk