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

+ **CM(M) 87/2016**

JAGDISH LAL DUA (SINCE DECEASED) THR LRS

..... Petitioner

Through Mr.Manoj Sharma and Mr. Kapil
Kaushik, Advocates.

versus

NEELAM KAPOOR & ORS

..... Respondents

Through Mr.Dev P.Bhardwaj, CGSC for UOI.
Mr.Shubhanshu Gupta for Mr.Anuj
Aggarwal, ASC for R-5 and R-6.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **25.01.2016**

C.M. No.2834/2016 (exemption)

1 Exemption is allowed subject to just exceptions. Application disposed of.

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2 Petitioner is aggrieved by the order dated 23.12.2015 vide which the application filed by the defendant seeking permission of the Court to lead evidence of two witnesses (purported to be attesting witnesses to the will dated 26.01.1999) was dismissed.

3 Next date fixed before the Trial Judge now is 27.01.2016 for conclusion of final arguments.

4 Learned counsel for the petitioner has drawn attention of this Court to the orders passed in the RFA which had arisen out of the present suit. Order dated 14.3.2011 of a Bench of this Court in RFA Nos.241/1999 and 242/1999 had remanded the matter back to the Trial Court for

decision of the issues with regard to the representation of to the Estate of late Bhag Chand as the contention before the Trial Judge was that Bhag Chand had died issueless and as per the petitioner/defendant Jagdish Lal Dua inherited the Estate of Bhag Chand. The subsequent order of this Court dated 26.11.2015 has also been perused. The matter is now fixed for 25.02.2016 to report about the proceedings which have ensued in the Trial Court and for directions. Learned counsel for the petitioner submits that a valuable right of the petitioner would be lost if one out of the two witnesses is not permitted to be examined. Two witnesses on behalf of the petitioner/defendant have already been examined which included the representative of the office of the Sub-Registrar.

5 Out of the two purported attesting witnesses (Mr.Charanjit Singh, Advocate and Mr.D.P.Bajaj), the petitioner/defendant is given permission to examine one of the two attesting witnesses. The petitioner will take adequate steps for summoning the said witness at his own responsibility. The petitioner shall produce the attesting witness on 29.01.2016. Affidavit of the said witness shall be filed in advance by the petitioner on before 29.01.2016 with advance copy to the respondent/plaintiff. The Trial Judge on 27.01.2016 which is the next date fixed before him shall adjourn the matter to 29.01.2016.

6 With these directions, petition disposed of.

7 Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

JANUARY 25, 2016/ndn