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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 344/2016
JYOTI BHATIA & ORS Petitioners
Through Mr.Sanjeev Mahajan, Advocate.
versus

ASHOK CHHABRA Respondent
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **08.04.2016**

C.M. Nos.13461-62/2016 (exemption)

Exemption is allowed subject to just exceptions. Applications disposed of.

CM(M) 344/2016 & C.M. No.13460/2016 (stay)

Petitioner is aggrieved by the order dated 31.3.2016 vide which the application filed by him seeking clubbing of the probate case with the civil suits has been declined.

Vide order dated 12.11.2013 on an application filed under Section 24 of the CPC the two suits i.e. the CS(OS) No.122/2008 titled J.L.Chhabra Vs. Ashok Chhabra and CS(OS) No.190/2008 titled Ashok Chhabra Vs.J.L.Chhabra pending in the Court of ADJ (Central District), Tis Hazari Courts were directed to be transferred to the Court of ADJ, West-Distrit to be tried along with pending probate petition no.120/10/2002. Pursuant thereto this Court has been informed that arguments have been concluded; written submissions

have been filed in both the suits as also in the probate petition and the matters are now ripe for filing judgment. This Court has been informed that the Trial Court has fixed the said two suits and the probate petition for orders on 12.4.2016. It was at the stage of final arguments that the application had been filed by the legal representatives of J.L.Chhabra with a prayer that the probate petition be clubbed along with the two suits and be decided together.

Learned counsel for the petitioner in support of his submission that such an impugned order is thus an illegality. He has placed reliance upon a judgment of the Apex Court reported as (2005) 12 SCC 503 to support his submission that the probate petition and the Civil Suit should be clubbed, heard and decided together.

As noted supra, a Bench of this Court on 12.11.2013 had passed an order on a petition under Section 24 of the CPC transferring the two suits to the Court where the probate petition is pending; conspicuously the suits and the probate petition were not clubbed.

Be that as it may, this Court has been informed that both the suits and the probate petition are ripe for hearing and the matter is fixed for pronouncement of judgment. It was at the belated stage that this petition has been filed for clubbing of the aforementioned petitions. The judgment relied upon by the leaner counsel for the petitioner has no application to the factual matrix of the present case. This petition is pre-emptive; dismissed.

INDERMEET KAUR, J

APRIL 08, 2016/ndn