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

+ CM(M) 903/2016

MEENA JAIN & ANR ..... Petitioners

Through: Mr. Pawan Kawrani, Advocate.

versus

KAILASH VOHRA ..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**O R D E R**

% **09.09.2016**

**C.M. Nos.33261-33262/2016 (for exemption)**

Allowed, subject to all just exceptions.

The applications stand disposed of.

**CM (M) No.903/2016 & C.M. No.33260/2016 (for stay)**

1. By the present petition, the petitioner seeks to impugn the order dated 28.7.2016 by virtue of which the right of the petitioner/objectors to the probate petition to cross-examine PW-2 was closed.

2. The learned counsel appearing for the petitioner submits that the matter was fixed on 28.7.2016. His mother-in-law unfortunately expired on late night of 27.7.2016 and he had to rush to attend to her last rites. He had prepared for cross-examination on 27.07.2016.

3. An advance copy of the petition has been sent to the learned counsel for the respondent appearing before the trial court by speed post on 3.9.2016; however, none is present today.

4. A perusal of the impugned order shows that the trial court disallowed the request of the petitioner for adjournment on two grounds. It was firstly stated that the other counsel, that is, Sh. Jitesh Talwani, who had appeared should also have been ready and should have prepared the case to cross-examine the witness. Secondly, it noted that neither the date nor time of death or cremation of mother-in-law of the learned counsel Sh. Pawan Kawrani, has been disclosed by Sh. Jitesh Talwani so as to *prima facie* satisfy the court about the reasons for non-appearance of Sh. Pawan Kawrani.

5. The learned counsel for the petitioner submits that Sh. Jitesh Talwani is the junior counsel. The file was with Sh. Pawan Kawrani, who is representing the petitioner here also, and he was prepared to cross-examine the witness but on account of the last minute unfortunate circumstances, he could not send the file to Sh. Jitesh Talwani in order to appear for cross-examination. He further submits that the trial court has noted the submissions of Sh. Jitesh Talwani that the learned counsel for the petitioner is busy at that time in attending to the last rites of his mother-in-law. He submits that implicit in the submissions is that the last rites are being conducted that day itself.

6. The facts, in my opinion, show adequate grounds for grant of an adjournment to the petitioner. Normally, when a request of this

nature is made by a learned counsel, it would be a reasonable ground to adjourn the matter. A deep and detailed analysis of such a request is not appropriate or necessary.

7. Keeping in view the above position, impugned order dated 28.7.2016 is set aside. The petitioner would be entitled to cross-examine PW-2, Tapash Kumar Chatterjee on the date to be fixed by the trial court for the said purpose.

8. The learned counsel for the petitioner points out that no other witness has been examined after the evidence of the petitioner. The petition is disposed of in the above terms.

9. *Dasti.*

**JAYANT NATH, J.**

**SEPTEMBER 09, 2016**  
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