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

+ CM(M) 982/2016

ASHOK KUMAR Petitioner
Through Mr.Shagun Mehta, Advocate.
versus
NEELAM RANI & ORS Respondents
Through Mr.Sunil Goel and Mr.Supreet
Bimbra, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **28.09.2016**

CM No.35938/2016 (exemption)

Exemption is allowed subject to all jus exceptions.

CM(M) 982/2016 and CM No. 35937/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the orders dated 28.04.2016 and 14.07.2016 passed by the trial court. On 28.04.2016 the trial court closed the right of the petitioner to cross-examine PW-1 & 2. On 14.07.2016, the trial court dismissed the application filed by the petitioner to bring on record the list of witnesses and also to recall the order dated 28.04.2016.
2. The present probate petition is filed by respondent No.1 regarding the alleged Will dated 30.05.2005 of late Sh. Chunni Lal, the father of the petitioner and respondent No.1.
3. Learned counsel appearing for the petitioner submits that on 28.04.2016, the evidence of PW-2 Hans Raj Arora was given in court on that day itself and the right of the petitioner to cross-examine the said PW-2 was also closed. He submits that the main counsel for the petitioner was held

up in another court and hence, could not appear to cross-examine the said two witnesses.

4. A perusal of the order dated 14.07.2016 shows that the trial court concluded that respondent No.4/petitioner and his counsel were present and were given an opportunity to cross-examine PW-1 and 2 but they did not do the needful. It was concluded that the petitioner is adopting delaying tactics.

5. In view of the explanation given by the petitioner, in case the right of the petitioner to cross-examine PW-1 and 2 is closed, it would cause irreparable injury to the petitioner.

6. Regarding witness, learned counsel appearing for the petitioner has submitted that though as per the list of witnesses filed, there are five witnesses stated, however, the petitioner would like to examine only the concerned doctor, namely, Dr. Harish Kumar and of course, the petitioner.

7. An advance copy of the petition has been sent by speed post to the respondent but none is present for the respondent.

8. The petitioner is granted one last opportunity to cross-examine PW-1 and 2 on the date to be fixed by the trial court. No adjournment would be granted to the petitioner on the said date.

9. Liberty is also granted to the petitioner to lead the evidence of the concerned doctor and also of the petitioner on the date to be fixed by the trial court.

10. With the above observations, the present petition stands disposed of.

11. Copy of the order be given Dasti under the signatures of the Court Master.

SEPTEMBER 28, 2016/rb

JAYANT NATH, J