

\$~17.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ TEST.CAS. No.6/2017
MEERA MARIA TRESSLOR Petitioner
Through: Mr. Aly Mirza, Adv.
versus
STATE NCT OF DELHI Respondent
Through: Mr. Uday Chauhan for Ms. Sunita
Bansal, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

16.01.2017

1. The petition seeks probate of a document dated 23rd August, 1998 stated to be the validly executed last Will of Mr. E.L. Tresslor son of late Mr. C.M. Tresslor resident of D-3, First Floor, Nizamuddin (West), New Delhi – 110 013 who is stated to be Christian by religion.
2. The petitioner claims to be the adopted daughter of the deceased.
3. None of the close relatives of the deceased or those having caveatable interest have been impleaded as respondents and no list thereof has been furnished. Though it is stated that one of the said close relatives has furnished an affidavit supporting the document claimed to be the Will but even that person is not impleaded. Merely filing an affidavit claiming to have been executed by the close relative does not serve the purpose without that close relative being before the Court. Similarly the petitioner cannot deprive those having caveatable interest to notice by stating that their addresses are not known. The petitioner, before approaches the Court, is required to make the requisite enquiry. The petitioner appears to be wanting a walkover. The same cannot be permitted.

4. Though it is also the case in the petition that the bequest, besides in favour of the petitioner is also in favour of one Mr. Jai Shankar also an adopted son of the deceased but the said Mr. Jai Shankar also has not been impleaded. On being asked, the counsel for the petitioner states that 'he is with the petitioner'. Again, same does not obviate the necessity of impleading him as party particularly when as per the document the appointment of the petitioner as executor is joint or several with the said Mr. Jai Shankar. There is no averment that the said Mr. Jai Shankar has refused to join.

5. The counsel is also unable to show as to in the case of a Christian dying intestate who all would inherit the property i.e. would have a caveatable interest and to whom notice is to be issued.

6. The counsel for the petitioner withdraws the petition with liberty to file afresh.

7. Dismissed as withdrawn with liberty aforesaid but on the condition that this petition and this order shall be disclosed in any further proceeding undertaken.

8. The original documents as per rules be returned to the petitioner as sought.

No costs.

RAJIV SAHAI ENDLAW, J

JANUARY 16, 2017

'pp'..