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

+ CM(M) 229/2017

RANI DUTTA

..... Petitioner

Through Mr.Arvind Kr.Gupta, Ms.Arpana
Malik, Mr. Rachit Gupta and Mr.Anshul Garg,
Advocates.

versus

BABLI GHOSH & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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27.02.2017

CM No. 7539/2017 (exemption)

Allowed subject to all just exceptions.

CM(M) 229/2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 28.01.2017 by which the application under Section 152 CPC filed by respondent No.2/defendant No.2 seeking correction of errors in the order dated 21.09.2016 allowing application Order 8 Rule 1A CPC was allowed and respondent No. 2 was allowed to tender in evidence Annexure C and D of the application which are the reports of the handwriting expert.

2. The petitioner has filed the suit for permanent as well as mandatory injunction. Respondent No.1 is the daughter of the petitioner. The property

was originally owned by the husband of the petitioner/father of respondent No.1. As per the petitioner her late husband i.e. Late Kali Pada Dutta had executed a will dated 01.05.1990 bequeathing the said property in her favour.

3. After some arguments, learned counsel for the petitioner submits that the opinion of the handwriting expert is sought to be placed on record after the petitioner evidence has already been completed. He submits that in case necessity arises, the petitioner should be allowed to lead rebuttal evidence in view of the fact that this evidence is allowed to be led at a very late stage

4. A perusal of the issues framed on 15.12.2011 would show that the onus to prove some of the issues is on the respondents.

5. Keeping in view the fact that the respondents have chosen to place on record the opinion of the handwriting expert at a late stage and also the fact that the onus of some of the issues is on the respondents, it is in the interest of justice to allow the petitioner to lead rebuttal evidence at the appropriate stage in case so desired, as per law.

6. I may note that an advance copy of the petition has been sent to the respondents but none has chosen to appear.

7. In view of the above, the present petition stands disposed of.

JAYANT NATH, J

FEBRUARY 27, 2017
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