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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 130/2017 & CM No. 10677/2017 (for leading of addl. Evi.)**

VINOD KUMAR VACHHAR Appellant
Through: None.

versus

STATE & ORS Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **29.05.2017**

1. This first appeal under Section 299 of the Indian Succession Act is filed against the impugned judgment of the court below dated 16.12.2016 dismissing the probate petition on account of non examination of the attesting witnesses.

2. Before this Court an application being CM No.10677/2017 is filed for leading of additional evidence of one or more of the attesting witnesses.

3. The probate petition is a probate petition with respect to the registered Will dated 12.9.2008 executed by the deceased Smt. Kailash Rani Vachhar. In the probate petition proper respondents were respondent nos. 2 to 5. Respondent nos. 2 and 3 had given their no objection to the grant of probate.

Respondent no.4 was proceeded ex parte and respondent no.5 was deleted from the array of parties on account of non service of the petition upon the said respondent no.5.

4. Since the case before the court below was an uncontested case, therefore in my opinion, there are sufficient reasons for allowing the application for additional evidence being CM No. 10677/2017 which is allowed and disposed of and the appellant will get three opportunities to lead evidence of one or more of the attesting witnesses to the Will dated 12.9.2008 of late Smt. Kailash Rani Vachhar.

5. The appeal is accordingly allowed and disposed of.

6. Petitioner will appear before the District and Sessions Judge, Rohini Courts, Delhi on 7.7.2017 and the District and Sessions Judge will mark the probate petition to a competent court for disposal and in terms of the present order.

VALMIKI J. MEHTA, J

MAY 29, 2017

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