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

+ **TR.P.(C.) 72/2017**

VEENA ARORA Petitioner

Through: Mr. Raj Kumar, Adv.

versus

RAJEEV ARORA & ORS Respondents

Through: Mr. Nitin Gupta and Mr. Vikas Singh,
Adv. for R-1&2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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10.10.2017

1. Transfer, in exercise of powers under Section 24 of the Code of Civil Procedure, 1908 (CPC), is sought of CS No.2510/2016 titled ***Sudarshan Kumari Vs. Veena Arora & Ors.*** of the Court of Shri Anurag Sain, Additional District Judge, (East), Karkardooma Courts, Delhi to this Court for trial along with CS(OS) No.1760/2014 titled as ***Veena Arora Vs. Sudarshan Kumari (Deceased)*** and Test. Cas. No.37/2016 titled ***Rajeev Arora Vs. State*** pending in this Court.

2. Notice of the petition was ordered to be issued and the counsel for the respondents no.1&2 has been appearing. The respondent no.3 has been served by affixation. The respondent no.5, 8 and 9 have been served. The respondent no.4 and respondent No.7 are unserved and the report of service of the respondent no.6 is awaited. None appears for the served respondents. They are proceeded against *ex parte*. It is not deemed expedient to await the service of respondents no.4,6 and 7.

3. The counsels have been heard.

4. The respondents no.1&2 have filed Test. Cas. No.37/2016 in this

Court seeking probate of a document claimed to be validly executed last Will of Smt. Sudarshan Kumari mother of the respondents no.1&2. The petitioner, who is wife of pre-deceased son of the said Smt. Sudarshan Kumari has filed CS(OS) No.1760/2014 in this Court for partition of the properties of Smt. Sudarshan Kumari and of husband of Smt. Sudarshan Kumari and of which one of the properties is subject matter of the document aforesaid claimed to be the Will. The suit which is sought to be transferred to this Court was instituted by Smt. Sudarshan Kumari for recovery of possession of the property subject matter of the document claimed to be the Will from the petitioner and her children. The respondents no.1&2, after the demise of Smt. Sudarshan Kumari, applied for their substitution in place of Smt. Sudarshan Kumari on the basis of the document claimed to be the Will of Smt. Sudarshan Kumari. Since the said question is subject matter of Test. Cas. No.37/2016. The proceedings in the suit sought to be transferred have been stayed awaiting the outcome of the Test. Cas. No.37/2016.

5. In this view of the matter, I have enquired from the counsel for the petitioner as to what purpose transfer of the suit, proceedings wherein have been stayed, will serve.

6. The counsel for the petitioner agrees that in the event of Test. Cas. No.37/2016 being decided against the petitioner, the petitioner would have no defence to the claim in the suit for possession.

7. In this view of the matter no case for transfer is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 10, 2017/‘pp’..

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