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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ TR.P.(C) 35/2016 & I.As. 10235/2016 AND 14143/2016

MRS RENU BHANOT Petitioner
Through: Ms. Priyam Mehta, Advocate.

versus

MRS POONAM RANGRA & ORS Respondents
Through: Ms. Aastha Dhawan, Advocate with
Ms. Gauri P. Desai and Ms. Diksha
Mathur, Advocates for respondents No.1
and 3.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER
30.10.2017

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Present transfer petition has been filed under Section 24 CPC for transfer of Civil Suit titled 'Renu Bhanot Vs. Poonam Rangra' being Suit No.8110/2016 pending in the Court of Mr. Sonu Agnihotri, ADJ, Saket Courts, South-East District, to this Court on the ground that a Testamentary case being Test.Cas.17/2014 is pending adjudication in this Court.

Learned counsel for petitioner submits that the adjudication and trial of the suit and probate proceedings before different Courts in respect of the same cause of action, the same documents, i.e the alleged Will, alleged Agreement to Sell dated 01st January, 2001 alleged Conveyance Deed dated 01st June, 2004 and the same suit property, may result in conflicting judgments.

Learned counsel for respondents No.1 and 3 submits that respondent No.3 who has filed the probate petition is not a party in the civil suit whose transfer has been sought by way of the present petition. She also states that the probate petition is at the stage of recording of evidence.

In rejoinder, learned counsel for petitioner states that inadvertently respondent No.3 in the present petition, had not been impleaded in the civil suit. She, however, states that an impleadment application under Order 1 Rule 10 CPC to implead respondent No. 3 has already been filed in the said suit. She points out that it is only the respondent No.3 who is opposing his impleadment in the said suit.

Having heard learned counsel for parties and having perused the paper, this Court finds that one of the reliefs sought for by the petitioner in its suit pending before the District Court is for a decree of declaration declaring the alleged Will dated 05th May, 2003, whose probate has been sought in Test. Cas. No. 17/2014 as non-est, void ab-initio and a fraud and fabricated document.

Consequently, this Court is of the view that the issue and the documents in both the probate as well as the suit are overlapping. Accordingly, the present petition is allowed and the suit titled 'Renu Bhanot Vs. Poonam Rangra' being Suit No.8110/2016 pending in the Court of Mr. Sonu Agnihotri, ADJ, Saket Courts, South-East District, is directed to be transferred to this Court.

It is further directed that the aforesaid suit and probate petition being Test. Cas. 17/2004 shall be heard and disposed of eventually together.

However, this Court is of the opinion that the transfer of the suit is no ground to postpone recording of evidence in the probate petition.

With the aforesaid observations and directions, the present petition is disposed of.

Registry is directed to send a copy of this order to District Judge, Saket District Courts, New Delhi.

MANMOHAN, J

OCTOBER 30, 2017

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