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

+ **FAO 38/2017 and C.M. No.2520/2017 (for stay)**

ASTHA GHAI WALIA

..... Appellant

Through: None.

versus

STATE (GOVT OF NCT DELHI) & ANR)

..... Respondents

Through: Mr. Mukul, proxy Advocate for R-1.

Mr. Naleash Kumar, Advocate for
R-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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17.05.2017

1. No one appeared for the appellant on the first call. No one appears for the appellant even on the second call. It is noted that the impugned judgment dated 5.10.2016 allows the petition filed by the respondent no. 2 herein for Letters of Administration of the Will dated 25.11.2014 of the deceased Smt. Geeta Ghai. Smt. Geeta Ghai was the mother of respondent no. 2 as also the appellant.
2. In the court below the Will in question dated 25.11.2014 has been proved and exhibited as Ex.PW1/1.
3. The appellant who was the respondent no. 2 in the court below

did not file any objections and also led no evidence whatsoever.

4. The court below has held the Will Ex.PW1/1 to be proved and which was proved also through the attesting witness PW2, namely, Sh. Alok Sahai.

5. The only objection of the appellant was as regards the fact that the deceased Smt. Geeta Ghai was not the exclusive owner of the property situated at Janakpuri and in this regard the court below as per paragraph 23 of its judgment has rightly clarified that the court deciding a petition for grant of letters of administration/probate does not decide any title of the immovable property.

6. In view of the above discussion, though there is no merit in the appeal but since no one appears for the appellant, the present appeal is dismissed in default and for non-prosecution.

7. Let no application for restoration or re-call of this order be entertained unless costs of Rs.20,000/- are first paid to the respondent no. 2 Smt. Neeru Mehra. The order of imposition of costs is passed in view of the provisions of Order 25 Rule 1 and Section 141 CPC.

VALMIKI J. MEHTA, J

MAY 17, 2017

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8. After the aforesaid order was dictated and counsel for the respondents had left, counsel Sh. Ajay Chaudhary, Advocate appears for the appellant and after arguments it is stated that the appeal be disposed of as not pressed if this Court observes that grant of letters of administration will not be reflective of the ownership of the property situated at B-1/1, Community Centre, Janakpuri, New Delhi-110058.

9. I have already observed above that the trial court in para 23 of its judgment has held that grant of letters of administration is not a reflection on the ownership of an immovable property, and this Court also reiterates the same, and parties are always at liberty to question and get decided the issue of ownership of any immovable property, if according to any of the parties any of the properties which are subject matter of bequest under the Will dated 25.11.2014, was as per a party, not owned by the deceased Smt. Geeta Ghai.

10. Appeal is accordingly disposed of as not pressed but subject to the aforesaid observations.

VALMIKI J. MEHTA, J

MAY 17, 2017

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