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

+ **TEST.CAS. 60/2014**

ASHOK BAJAJ

..... Petitioner

Through: Mr. Darpan Wadwa, Senior Advocate
with Ms. Caveri Birbal & Mr. Amit
Dwivedi, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: Mr. Siddharth Bajaj, R-3 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **15.10.2018**

I.A. 13324/2018 in TEST.CAS. 60/2014

1. The present petition under Section 276 of the Indian Succession Act, 1925 has been filed seeking grant of probate of the Will dated 10th October, 1976 executed by Late Mr. Jagdish Lal Bajaj. The prayer sought in the petition is as under:

“In view of the foregoing facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to grant the Probate in favour of the Petitioner on the basis of the last Will and Testament dated 10.10.1976 of the deceased, Mr. Jagdish Lai Bajaj.”

2. The Petitioner has moved the present application seeking permission to withdraw the present petition due to his ill health.

3. Mr. Siddharth Bajaj – Respondent No.3 appearing in person submits

that the Petitioner has unnecessarily dragged the Respondents into this litigation for the last four years, and the Respondents should therefore be compensated with appropriate costs as the Petitioner has now chosen to withdraw the petition after long drawn litigation at this stage, when evidence was to be led by the parties. Further, Mr. Bajaj submits that the Petitioner is also guilty of making false statements. He submits that in para (k) at page 10 of the present petition, the Petitioner admits the existence of the Codicil dated 14th October, 1976 whereas on 7th September, 2018, the Petitioner had submitted that the Codicil is not admitted.

4. He further submits whenever such a withdrawal is prayed for, the party is liable to be burdened with costs.

5. The present being an application under Order XXXIII Rule 1 for unconditional withdrawal of the present case, the petition is dismissed as withdrawn.

6. However, the record of the case shows that the present petition has been heavily contested by the Respondents who have been appearing in person on several hearings. Even today, Respondent no.3 and his mother – Respondent no.2 are present in person. Respondent no.4 is the sister of Respondent no.3 and daughter of Respondent no.2. The Petitioner is the uncle of the Respondents No. 3 and 4 and the brother-in-law of Respondent No. 2. There can be no doubt that the Respondents have been put to inconvenience due to the filing of the present petition. Since the petition is being withdrawn, though the litigation is coming to an end, the party who filed the same can be burdened with costs.

7. Under these circumstances, the petition is dismissed as withdrawn with costs of Rs.1,00,000/-. The earlier imposed costs of Rs.10,000/- on the

Respondents are waived.

8. Mr. Bajaj submits that the Petitioner is guilty of making contradictory statements. Mr. Darpan Wadhwa, Learned Senior Counsel appearing for the Petitioner submits that the Respondents have already raised this issue about contradictory statements and the same has been dealt vide the order dismissing the Order VII Rule 11 application. This Court makes no observations in respect of the same. If the Respondents wish to invoke any other remedies in law, he has the liberty to seek the same in the appropriate forum. The allegations of false statements being made by the Petitioner are not being gone into as the Petition is being dismissed as withdrawn.

9. Petition is dismissed as withdrawn, in the above terms. All I.As. are also disposed of.

PRATHIBA M. SINGH, J

OCTOBER 15, 2018

Rahul