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

+ **CS(OS) 514/2018 & I.A.14115-14116/2018**

MS MAMTA NAGPAL

..... Plaintiff

Through: Mr. Vikram Singh, Advocate with
Mr. C. Shekhar Malhotra,
Advocate.

versus

MS BARUNA MADAN & ORS.

..... Defendants

Through: None.

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Date of Decision: 11th October, 2018

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present suit has been filed for declaration of the Will dated 22nd February, 2012 as the last executed Will of Testator- Mr. Baldev Raj Madan and declaration of titles of immovable properties and movable assets, possession and injunction in favour of the plaintiff.

2. In the plaint, it is averred that the plaintiff, defendant No.1 and defendant No.3 are the daughters of the deceased Testator-Mr. Baldev Raj Madan.

3. It is averred in the plaint that Mr. Baldev Raj Madan was the owner of A-38/1, Mayapuri Industrial Area, Phase-I, Mayapuri, Delhi-110064 as well as the built-up third floor with roof rights

bearing No.BE-274, land measuring 95 Sq. Yds. Out of Khasra No.1908, situated in the Hari Nagar Colony as well as the bank account in UCO Bank and gold weighing 370 grams.

4. It is further stated in the plaint that Mr. Baldev Raj Madan, who expired on 11th January, 2013, executed a Will dated 27th February, 2012 in terms of which he bequeathed all his movable and immovable assets in favour of the plaintiff.

5. It is the case of the plaintiff that the defendants No.1 and 3 did not support their father and were always in disagreement with him. It is stated in the plaint that on 31st August, 2015, when the plaintiff visited the residence of the Testator, she came across the Will dated 27th February, 2012.

6. It is admitted in the plaint that the defendant No.3 has already filed a suit being CS(OS) 1900/2015 for partition with respect to all movable and immovable properties of the Testator as well as a probate petition being Test.Cas.4/2016 with respect to the Will dated 13th May, 2011 of late Mr. Baldev Raj Madan.

7. In the opinion of this Court, in the Test.Cas.4/2016 an issue would have to be framed as to whether the Will dated 13th May, 2011 is the validly executed last Will of the deceased Mr. Baldev Raj Madan.

8. In the said proceedings, the present plaintiff would have to prove that the last Will of the deceased Testator was 27th February, 2012 and not 13th May, 2011.

9. Consequently, this Court is of the view that no relief can be granted to the plaintiff in the present suit till the Test.Cas.4/2016 and CS(OS) 1900/2015 are decided.

10. Accordingly, present suit and applications are dismissed with liberty to the plaintiff to file appropriate proceedings in the event the Test.Cas.4/2016 and the partition suit being CS(OS) 1900/2015 filed by the defendant No.3 are dismissed.

MANMOHAN, J

OCTOBER 11, 2018

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