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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 735/2013

SHARDA DHAWAN

..... Plaintiff

Through: Mr. Ajay Malhotra, Advocate.

versus

MANMOHAN MEHRA & ORS

..... Defendants

Through: Ms. Manisha T. Karia, Advocate with
Ms. Sukhda Kalra and Mr. Shashank
Mangal, Advocates for defendant No.1.
Mr. Alok Bhachawat, Advocate with
Mr. Shailendra Singh, Advocate for
defendants No.5 to 7.
Mr. Alok Pandey, Advocate for
defendant No.12.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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24.01.2019

I.A. 212/2017 in CS(OS) 735/2013

Present application has been filed for amendment of the plaint for partition, damages, mesne profits, rendition of accounts and permanent injunction to incorporate the challenge to the father's alleged Will dated 30th June, 2000 as well as the 'No Objection Certificate' and Collaboration Agreement to re-develop Safdarjung Enclave property and the Sale Deed with regard to Chandni Chowk property as null and void.

A perusal of the paper book reveals that the defendants No.5 to 7

along with their written statement dated 21st August, 2013 had placed on record a 'No Objection Certificate' issued by the plaintiff. The said 'No Objection Certificate' is reproduced hereinbelow:-

*“NO OBJECTION CERTIFICATE
(To whomsoever it may concern)*

That our Father Late Shri Prakash Chand Mehra R/o 713, Katra Neel, Chandni Chowk, Delhi breathed his last on 4th January, 2010. He left his Will dated 30th June, 2000. We have read & understood the contents of the Will. We have no objection to this Will and we honour this Will as per our Late Father's Wishes.

- 1) Mr. Vinod Batra W/o Shri Shyam Sunder Batra & daughter of Late Shri Prakash Chand Mehra r/o 258, SFS, Rajauri Apartments, Mayapuri, New Delhi-110064.*
- 2) Mrs. Ritu Mehra W/o Shri Surinder Mehra & daughter of Late Shri Prakash Chand Mehra R/o MD-48, Pitampura, New Delhi-110085.*
- 3) Mrs. Sharda Dhawan W/o Sh. Ravinder Dhawan & daughter of Late Shri Prakash Chand Mehra R/o C-227, Greater Kailash-1, New Delhi-110048.*
- 4) Mrs. Lata Suri W/o Shri Praveen Suri and daughter of Late Shri Prakash Chand Mehra R/o Sector-17, Pocket-A, 656, Dwarka, New Delhi.*

Verification:

Verified at Delhi on this 16th January, 2010 that the contents mentioned the above paras are true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

*Sd/-
Deponent*

*Sd/-
Deponent*

*Sd/-
Deponent*

*Sd/-
Deponent”*

Though it is the case of the plaintiff in the plaint that defendant No.1 had got some papers signed from her in a depressed state, yet no relief qua the said documents had been sought when the suit was initially filed before this Court on 17th April, 2013. The said fact was highlighted by the learned Predecessor of this Court while issuing summons in the suit vide order dated 23rd April, 2013.

Thereafter, though the 'No Objection Certificate' was placed on record along with the written statement of defendants No.5 to 7 on 21st August, 2013, yet the present application for amendment has been filed on 04th November, 2016 only i.e. admittedly beyond the three years limitation period.

It is pertinent to mention that the 'No Objection Certificate' is on stamp paper and had been executed by all the four sisters including the plaintiff and is duly notarised.

Since it is not the case of the plaintiff that she is an illiterate lady, this Court is of the view that the plaintiff shall be presumed to have signed the papers after reading the same. In fact, this Court is of the view that the plaintiff is neither a famous sportsperson or film star that she signs autographs on blank papers without application of mind. She is a literate person who in law is presumed to sign papers after reading the same. Accordingly, the sanctity of the 'No Objection Certificate' has to be accepted by this Court.

As the 'No Objection Certificate' also refers to the Will of the deceased father dated 30th June, 2000, this Court is of the view that the present amendment application is beyond limitation. Consequently, the reliefs sought to be incorporated by way of the amendment application are

clearly barred by limitation.

Accordingly, present application is dismissed with cost of Rs.10,000/- to be paid to each of the parties.

CS(OS) 735/2013 & I.A. 13836/2016

Since the present suit has been filed for partition of the Safdarjung Enclave and Chandni Chowk properties as well as for rendition of accounts, damages, mesne profits and permanent injunction in which the plaintiff has no right, title or interest in accordance with the father's Will dated 30th June, 2000, which has been admitted by the plaintiff in the 'No Objection Certificate' dated 16th June, 2010 and challenge to which has been declined by this Court, the present suit for partition is held to be not maintainable.

Accordingly, the present suit and application are dismissed.

MANMOHAN, J

JANUARY 24, 2019

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