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

+ TR.P.(C.) 57/2017

SHARDA RANI DUGGAL

..... Petitioner

Through: Mr Rajat Aneja and Ms Chandrika
Gupta, Advocates.

versus

RAKESH DUGGAL & ORS

..... Respondents

Through: Mr Amanullah, Advocate for R-1.
Ms Namrata Mukin with Ms Unnati
Anand, Advocates for R-6.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.04.2019

1. The petitioner has filed the present petition, *inter alia*, praying that suit bearing C.S. No.328/2016 captioned 'Sharda Duggal v. Rakesh Duggal' & Anr., which is currently pending before the Additional District Judge, Tis Hazari Courts be transferred to this Court and be consolidated/tagged alongwith the Probate Petition bearing Test Case No.16/2010 captioned 'Rakesh Duggal v. the State and others'.
2. Mr Aneja, learned counsel appearing for the petitioner contends that there is sufficient similarity in the subject matter of the suit and the probate petition, since both relate to a property bearing no.7/26, West Patel Nagar, New Delhi-110008. He states that the said property was subject matter of a Will dated 12.03.1992, the probate of which is sought in Test Case No.16/2010.

3. He submits that the suit (CS 328/2016) is with regard to the manner in which the said property is required to be enjoyed between the stakeholders.

4. This Court is unable to accept that there is a common issue involved in the two proceedings as mentioned above. The testamentary case relates to the probate of a Will and none of the parties have any objection to the said Will. It is conceded case of the petitioner herein that the said Will was executed. This is also the petitioner's stand in the suit.

5. Since, there is no controversy between the parties with regard to the Will, the petitioner's contention that both the proceedings ought to be tried together is unmerited. The petition is disposed of.

VIBHU BAKHRU, J

APRIL 30, 2019
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