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

% Judgment delivered on: 05.04.2023

+ CM(M) 542/2023

MRS POONAM KUMAR

..... Petitioner

versus

YASH PAL KARVAL (DECEASED)

THROUGH LRS AND ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. R.K. Saini, Advocate

For the Respondent : Mr. C.L. Dhawan, Advocate

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 16197/2023

1. This is an application seeking exemption from filing certified copies of the annexures/documents.
2. Exemption is allowed, subject to all just exceptions.
3. The application stands disposed of.

CM(M) 542/2023 & CM APPL. 16196/2023 (Stay)

4. The petitioner challenges the order dated 17.03.2023 passed in PC No. 06/2018 titled '*Yash Pal Karwal Through Legal Heirs vs. Govt NCT of Delhi & Ors.*', whereby in an application under Order XXVI Rule 10 of CPC, 1908, the learned Trial Court had nominated and

appointed Local Commissioner for recording the evidence of attesting witness to the Will.

5. After some arguments, Mr. R.K. Saini and Mr. C.L. Dhawan, learned counsels jointly submit that this Court may pass directions for recording of evidence of the attesting witness of the Will before the Court itself, rather than the Local Commissioner as appointed.

6. It is also informed by Mr. Saini, learned counsel that the evidence by way of an affidavit of the attesting witness is on record and he already has a copy of the same and is prepared to conduct the cross-examination.

7. In view of the aforesaid submissions as also with respect to the fact that there is no objection from the other side, the learned Trial Court may take up the matter on 10.04.2023 and commence the recording of evidence of attesting witness.

8. Mr. Saini undertakes to conclude the cross-examination within two dates, the first being 10.04.2023 and the other one would be as per the convenience of the learned Trial Court.

9. The aforesaid modification is with respect to only the application under Order XXVI Rule 10 of CPC, 1908 and so far as the other part of the order is concerned, the same are not gone into.

10. In view of the aforesaid the impugned order is modified to the aforesaid extent and petition and applications are disposed of with no order as to costs.

TUSHAR RAO GEDELA, J.

APRIL 5, 2023

