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

% Judgment delivered on: 01.05.2023.

+ CM(M) 703/2023

HARTESH GOYAL

..... Petitioner

versus

ASHA GUPTA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sumant De and Mr. Rohit Singh,
Adv.

For the Respondent : Ms. Nandni Sahni, Adv.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 21984/2023 (Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 703/2023 & CM APPL. 21985/2023 (Stay)

3. The petitioner challenges the order dated 25.04.2023 in CS 645/2018 titled '*Asha Gupta v. Naveen Kumar Gupta*', whereby the applications seeking early hearing, review and condonation of delay were dismissed
4. Learned counsel appearing for the petitioner submits that the matter has been pending for almost thirteen years and has not been heard till date.

5. Learned counsel appearing for the petitioner submits that the review application as well as condonation of delay in filing application be taken up and decided on or before 26.05.2023.
6. Learned counsel appearing for the petitioner submits that vide the order dated 22.08.2022, the learned Trial Court had fixed the matter for final arguments on 15.10.2022. However, Mr. De submits that, an application seeking transmission of the Will to FSL for scientific evaluation in question was pending since the last four years was suddenly taken up by the learned Trial Court. Vide the order dated 04.11.2022, the same was directed to be sent to FSL for such purpose. Mr. De submits that the said order was passed behind his back.
7. Learned counsel submits that it was this order that was sought to be reviewed along with the application for condonation of delay, which was not being taken up for hearing by the learned Trial Court that the present petition is being filed.
8. Ms. Sahani, learned counsel appearing for the respondent No.1 on advance notice submits that the submissions are incorrect, factually. Ms. Sahani submits that the petitioner has not challenged the order dated 04.11.2022 till date before this Court except by way of a review and therefore, cannot blame the Trial Court for keeping the matter for hearing of such application on the shortest possible date as noted in the impugned order.
9. Learned counsel also submits that the petitioner has been taking his own time to file a review application of the order dated 04.11.2022 and therefore the learned Trial Court was constrained to keep the matter for consideration of such review application. Ms. Sahani submits that it

has been categorically noted by the learned Trial Court that the alleged review application was unsigned by the petitioner and for such purpose also, the said consideration was delayed.

10. Mr. De, learned counsel appearing for the petitioner disputes the said submissions and to the contrary submits that the said application may not have been signed yet was supported by an affidavit of the petitioner along with the application seeking condonation of delay.

11. Upon a perusal of the impugned order as also the other orders passed by the learned Trial Court, it appears that the matter was listed for final hearing.

12. However, vide the order dated 18.11.2014 in CS (OS)1280/2010 titled '*Asha Gupta Vs. Naveen Kumar Gupta & Ors.*' passed by this Court, in para 7, this Court had given the liberty to the learned Trial Court, if necessary to get the Will in question sent to an appropriate authority for the said examination of the genuineness of testator's signatures on the premise that the evidence brought is not sufficient.

13. The para 7 appears to be subject to contents of para 6 of that said order.

14. This Court is as of now not concerned with the earlier order passed by this Court of the learned Trial Court for the reason that in the impugned order, the learned Trial Court had categorically noted that there is pendency of more than 1500 cases which include about more than 400 five year old cases which are yet to be adjudicated and on that basis though being constrained for time has, yet given a very short adjournment on 26.05.2023.

15. This Court is not inclined to interfere in the matter and the learned

Trial Court is at liberty to decide its own board and having regard to the noting made above, this Court is not going to interfere in the impugned order.

16. In view of the above, the petition is disposed of with no order as to costs.

17. Learned Trial Court may, if possible, consider expeditious disposal of the suit.

TUSHAR RAO GEDELA, J .

MAY 1, 2023/ms

