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

Date of decision: 25.09.2023

+ CM(M) 1130/2019 & CM APPL. 34395/2019

AARTI ARORA & ORS

..... Petitioners

Through: Mr. Ashish Kapur, Ms. Chhavi Luthra
and Mr. Anmol Kapur, Advocates.

versus

NCT OF DELHI & ORS

..... Respondents

Through: Mr. Ajay Kumar Jha and
Mr. Prabhash Kr. Jha, Advocates for
R-5 & R-10

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of the Constitution of India, impugns the order dated 16.04.2019 passed by the ADJ, Central District, Tis Hazari Courts, Delhi ('Probate Court') in probate case bearing PC No. 42152/2016, titled as '**Arti Arora & Ors. v. State & Ors.**', whereby the Probate Court dismissed Petitioner's application filed under Order XIV Rule 5 of Code of Civil Procedure, 1908 ('CPC') seeking recast of the issues which were framed on 18.12.2017 in the probate case.

2. The Petitioner herein is also the petitioner in the probate case. The contesting parties before the Probate Court are respondent Nos. 5 and 10 and the said respondents are arrayed as Respondent Nos. 5 and 9 respectively in



this petition.

3. It has also come on record that the Petitioners herein have filed a separate suit bearing No. CS SCJ No. 3626/2018, which is pending before Sh. Sahil Khurmi, Senior Civil Judge, Central District, Tis Hazari Courts, Delhi ('Senior Civil Judge'). In the said civil suit the Petitioners herein have challenged the General Power of Attorney dated 09.04.2007 executed by the Testatrix, Smt. Trilochan Kaur Mamik and the consequent sale deed dated 02.11.2012.

4. Keeping in view the controversies arising in the matter, with the consent of the parties, it is agreed that the civil suit pending before the Senior Civil Judge be called for and transferred to be tried by the Additional District Judge along with the Probate Case bearing No. PC/42152/2016 pending before the Probate Court. The said direction is been issued since the contesting parties in the probate petition and the suit are common; the disputes arising for consideration are common and the subject property is common. The said direction will facilitate the expeditious hearing and avoid conflict of judgments. With the consent of the parties, it is directed that the aforesaid petitions will be heard and tried together.

5. This Court has been informed that the Probate case is next listed on 06.10.2023 and the civil suit is next listed on 10.11.2023.

6. The learned District Judge, Tis Hazari (Central), Delhi is requested to issue appropriate orders for transfer of the civil suit bearing CS SCJ No. 3626/2018 pending before Senior Civil Judge to the Probate Court hearing and trying the probate case bearing PC No. 42152/2016.

7. With the aforesaid direction, the petition is disposed of. Interim order dated 29.08.2019 stands vacated.



8. Pending applications, if any stand disposed of.
9. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA
(JUDGE)

SEPTEMBER 25, 2023*/mr/aa*