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

Date of decision: 29.11.2023

+ **CM(M) 1963/2023, CM APPL. 61355/2023 & CM APPL. 61356/2023**

DR HARVINDER SINGH

..... Petitioner

Through: Ms. Poonam Sharma, Adv.

versus

SMT MANJEET KAUR SAHNI & ORS.

..... Respondents

Through: None.

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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. None appear for the Respondents despite advance notice.
2. Learned Counsel for the Petitioner states that this Petition be also disposed of in terms of the **order dated 28.11.2023** passed in **CM(M) 1946/2023**, titled as **Dr. Harvinder Singh v. Prabhgun Kaur & Ors.**, which reads as follows.

1. *“This petition filed under Article 227 of Constitution of India impugns the order dated 26.07.2022 passed by the ACJ – cum – ARC, Central District, Tis Hazari Courts, Delhi (‘Trial Court’) in succession petition bearing SC No. 29/2018, titled as ‘**Prabhgun Kaur v. State and Ors.**’, whereby the Trial Court has allowed the Respondent No.3’s application filed under Order XXXII Rule 1 and 3 of Code of Civil Procedure, 1908 (‘CPC’) seeking appointment as the guardian of the minor Respondent No. 1 and for transposition as a co-petitioner.*



1.1. The Trial Court after referring to the Will dated 05.11.2016 executed by deceased Mrs. Gursharan Kaur (mother of minor Respondent No.1) and the Will dated 05.08.2019 executed by late Sardar Surjit Singh Sahni (i.e., maternal grandfather of Respondent No.1) permitted the Respondent No. 3 (i.e., maternal grandmother of Respondent No.1) to be transposed as a co-Petitioner and appointed her as the guardian of the minor Respondent No. 1 i.e., Ms. Prabhgun Kaur.

2. Pertinently, the Trial Court in the impugned order has recorded that Respondent No. 3 being the maternal grandmother of the minor Respondent No.1, has no interest adverse to that of the minor Respondent No.1.

3. This Court is of the considered opinion that there is no infirmity in the impugned order of the Trial Court in view of the fact that the Petitioner herein i.e., Dr. Harvinder Singh, is disputing the validity of the holographic Will dated 05.11.2016, which is the subject matter of the succession petition. His contest is averse to the interest of Respondent No. 1 who has been named an exclusive legal heir in the said Will.

4. At this stage, learned counsel for the Petitioner states that the Petitioner is not pressing his challenge to the impugned order in this petition. He states that however, Petitioner reserves his right to contest the claim of guardianship of Respondent No. 1 in any separate proceedings filed by either party. He states that the Petitioner accepts the appointment of Respondent No. 3 as the guardian limited to the proceedings arising for grant of the succession certificate. The said statement of the Petitioner is taken on record.

5. Accordingly, this petition is dismissed along with pending applications. The appointment of Respondent No. 3 as a guardian of Respondent No. 1 in the succession petition is upheld.

6. It is clarified that the rights, if any, of the Petitioner to contest his natural guardianship over the minor Respondent No.1 in any other proceedings will be decided by the appropriate forum in accordance with law.”

3. The aforesaid statement of the Petitioner is taken on record.
4. Accordingly, this Petition is dismissed along with the pending applications.
5. This Court is of the considered opinion that there is no infirmity in the impugned order of the Trial Court. The Appointment of Respondent No. 3



as a guardian of Respondent No. 1 in the succession petition no. 120/2020 is upheld.

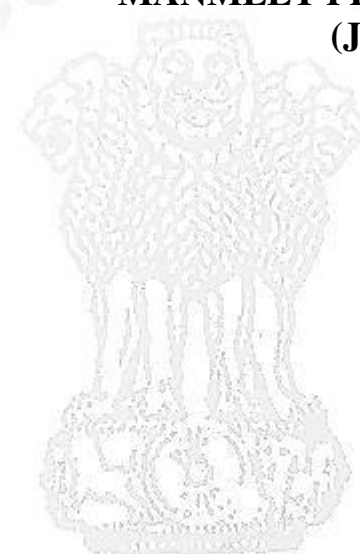
6. It is clarified that the rights, if any, of the Petitioner to contest his natural guardianship over minor Respondent No.1 in any other proceedings will be decided in other appropriate forum in accordance with law.

7. With the aforesaid, the present petition stands disposed of.

MANMEET PRITAM SINGH ARORA
(JUDGE)

NOVEMBER 29, 2023

Aks/ms



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