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

+ **FAO(OS) 5/2024 & CM APPL. 3094/2024**

MR RANJIT SINGH SETHI

..... Appellant

Through: Mr. Anupam Srivastava and Dr.
Chandra Shekhar, Advocates

versus

MR RANBIR SINGH SETHI & ORS.

..... Respondents

Through: Mr. Mohit Kr. Auluck, Advocate for
R-3

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **18.01.2024**

CM APPL. 3095/2024 & CM APPL. 3096/2024(for exemption)

1. Exemption allowed, subject to all just exceptions.
2. Accordingly, the present applications stand disposed of.

FAO(OS) 5/2024 & CM APPL. 3093/2024

1. The present First Appeal is filed by the Appellant under Section 10 of the Delhi High Court Act, 1966, impugning the order dated 04.12.2023 passed by the learned Single Judge of this Court in I.A. No. 7905/2023 passed in CS(OS) No. 277/2019, titled as **Ranjit Sethi v. Ranbir Singh Sethi & Ors.**, whereby the learned Single Judge has disposed of the I.A. No. 7905/2023 by partly allowing the same.

Brief Facts

1.1. The Appellant i.e., the plaintiff and the Respondents i.e., defendants are stated to be the legal heirs of late Sh. Mehtab Singh Sethi, who died on



13.04.2012. The Appellant, however, disputes that Respondent No. 6 is the legal heir of late Sh. Mehtab Singh Sethi.

1.2. The plaintiff has filed the suit for partition (CS (OS) No. 277/2019) of the estate of Late Sh. Mehtab Singh Sethi. In the plaint it is contended that Appellant and the Respondents are entitled to 1/7th share each in the estate, particularly in the property comprising Khasra Nos. 2165/1523/4, 2275/1519 and 2276/1519 measuring 15876 sq. yds., situated in revenue estate of village Tughlakabad, H-Block, Gali No. 16, Ratiya Marg, Sangam Vihar, New Delhi.

1.3. The Respondent Nos. 1 and 5 have opposed the suit by filing the Written Statement and stating that late Sh. Mehtab Singh Sethi had executed a Will dated 25.12.2009 with respect to his properties; and therefore, the Appellant is not entitled to any share in the estate.

1.4. The Respondent No.6 herein filed I.A. No. 6407/2022 in the said suit under Order I Rule 10 of the Code of Civil Procedure, 1908 ('CPC') for her impleadment. The said application was allowed vide order dated 07.09.2022. The Respondent No. 6 filed her Written Statement wherein she contended that she was the legally wedded wife of late Sh. Mehtab Singh Sethi and that the late Sh. Mehtab Singh Sethi has bequeathed his entire estate in favour of Respondent No.6 to the exclusion of the other legal heirs by virtue of the said Will dated 25.12.2009.

1.5. The learned Single Judge framed issues in the matter vide order dated 12.11.2021. The Respondent Nos. 1, 5 and 6 filed their list of witnesses wherein they had sought to summon 16 witnesses in support of their alleged case.

1.6. The Appellant herein filed an application bearing I.A. No. 7905/2023



in the CS(OS) No. 277/2019 under Chapter XI Rule 5 of the Delhi High Court Original Side Rules, 2018 seeking scrutiny of the List of Witnesses and consequently prayed for deletion of the witnesses mentioned in Part B of the List of Witnesses.

2. The learned Single Judge vide the impugned order dated 04.12.2023 disposed of the above-mentioned application by partly allowing the same in-as-much as the witnesses mentioned at Serial Nos. F to K of Part B of the List of Witnesses were directed to be deleted whereas the witnesses mentioned at Serial Nos. A to E of Part B of the List of Witnesses were held to be relevant and hence permitted to be examined.

Arguments of the Appellant i.e. the plaintiff

3. The learned counsel for the Appellant states that the existence of the documents as well as the newspapers, which are sought to be proved by summoning the official witnesses enlisted at Serial No. A to E are not in dispute.

3.1. He states that however, the Appellant disputes the legal inference drawn by the Respondents Nos. 1, 5 and 6 by relying upon the said documents. He states that therefore, there is no requirement for summoning the witnesses enlisted at Serial Nos. A to E.

3.2. He states that the Appellant has cross-examined the Respondent(s) witnesses on the said documents and therefore, there is no necessity for leading the formal proof.

3.3. He states that it is the Appellant's contention that the alleged marriage between Respondent No. 6 and late Mr. Mehtab Singh Gill was illegal as it was alleged to have been solemnized during the subsistence of the marriage between late Mr. Mehtab Singh Gill and Ms. Mary Sethi. He states that the



said legal assertion is unaffected by the existence of the aforesaid documents.

Arguments of the Respondent Nos. 1, 5 and 6 i.e. defendant nos. 1, 6 and 7

4. In reply, learned counsel for Respondent Nos. 1, 5 and 6 states that the concerned Respondents had sought the summoning of the formal witnesses to prove the documents on record to avoid any subsequent objection with respect to mode of proof.

Analysis and Findings

5. This Court has considered the submissions of the parties and perused the record.

6. In view of the fact that the Appellant admits the existence of the documents, which Respondent Nos. 1, 5 and 6 seek to prove by summoning the records maintained by the official Departments and newspaper publications, the said documents are eligible to be marked as exhibits and admitted in evidence.

7. In the facts of this case, since the Appellant is waiving the formal proof of the said documents, it is directed that the Appellant will not be permitted to raise any objections on the mode of proof with respect to the said documents at the subsequent stage of trial.

8. In this regard, it would be relevant to refer to Rule 17 in Chapter XI of Delhi High Court (Original Side) Rules, 2018, which clearly envisages that production of a public document by summoning the official witnesses is necessary only when the certified copy of the said document would not serve the purpose. In the present case, the concerned Respondents have placed on record certified copies of the documents received from the official departments as well as the newspapers and since, the veracity of the said



certified copies is not in dispute; there is no requirement for seeking production of the originals. This is also the case with respect to newspapers relied upon by the Respondents.

9. It is clarified that however, the marking of the exhibits on the said document will not preclude the Appellant from raising his contentions with respect to the validity of the marriage of Respondent No. 6. Needless to state that the said issue will be decided at the final adjudication in accordance with law.

10. Accordingly, the present appeal along-with pending application stands disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 18, 2024/rhc

Click here to check corrigendum, if any