



\$~82

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

% ***Date of decision: 22nd August, 2024***

+ **CM(M) 3200/2024 & CM APPL. 47992-47993/2024**

REKHA SAWHNEY

.....Petitioner

Through: **Mr. C P Puri, Advocate.**

versus

THE STATE, NCT OF DELHI AND ORS

.....Respondent

Through: **Mr. Sandeep Kumar, Advocate
for R-2.
Mr. Harsh Jain, Advocate for
R-3.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein (respondent No. 3 before the learned Trial Court) is defending a petition seeking probate of Will in question.
2. Such Petition seeking probate was filed by Mr. Sunil Kumar Bhatia, who is also one of the beneficiaries under the Will dated 11.06.1997 of his father who eventually expired on 09.02.2010.
3. The objections were filed by respondent No. 3 (petitioner herein) and when respondent No. 3 was asked to lead evidence, she filed her affidavit and was even partly cross-examined. During such cross examination, it was pointed out that there were certain averments made in her evidence-affidavit which were beyond pleadings. This necessitated respondent No. 3 to move an



application under Order VI Rule 17 read with Section 151 CPC whereby she prayed that she may be permitted to place on record certain subsequent events/developments by incorporating those in her written statement.

4. The details of such alleged subsequent events have been mentioned in para 8 of her application which she had moved before the learned Trial Court. It would be very apparent that the incidents which the respondent No. 3 wanted to incorporate pertain to year 2012 and there was no one to prevent her in amending her written statement, well in time.

5. Quite evidently, the amendment application had, merely, been moved on the basis of the objection raised by her adversary.

6. Learned Trial Court dismissed such application holding that there was no justification as to why at such a last moment, after so many years, the respondent No. 3 should be permitted to amend her written statement.

7. Such order is under challenge.

8. I have carefully gone through the grounds mentioned in the present petition and also heard learned counsel for the petitioner.

9. The case is already at a very advance stage of trial and no justifiable reason has been disclosed as to why such amendment should be permitted at such a belated stage.

10. Moreover as already noticed, the petition filed before the learned Trial Court, merely, seeks probate and these subsequent developments, even otherwise, do not seem to be relevant in context of the subject matter of the Probate Petition.

11. When asked, learned counsel for the petitioner herein stated that Will in question is a forged one and it has not been signed by the testator.

12. In view of the above said background, even otherwise, there is no real



2024:DHC:6405



requirement of amending the written statement.

13. Keeping in mind the overall facts and circumstances of the case, I do not find it to be a fit case where this Court should interfere with the impugned order by invoking its supervisory powers.

14. The petition is, accordingly, dismissed in *limine*.

(MANOJ JAIN)
JUDGE

AUGUST 22, 2024/*sw*