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Delhi High Court

M.L. Mehta, J.

SUSHILA YADAV—Petitioner

versus

LT. COL. GAJ SINGH YADAV & ORS.—Respondents

CM(M) 1072 of 2008—Decided on 25.9.2012

Civil Procedure Code, 1908 — Order 22 r/w Section 151, Order 47 Rule 1 — Impleadment as legal representative — Suit for Partition — Death of deceased, testatrix during pendency of suit — Claim of exclusive legal representatives of deceased sought by petitioner, would be subject matter of independent proceedings and cannot be decided within pending suit of partition — Party would be required to prove his such entitlement — Allowing petitioner to prove Will in suit would amount to trial within a trial which is not permissible — No infirmity or illegality in impugned order of ADJ.

[Paras 7, 8]

Result : Ordered accordingly.

Cases referred:

1. ***S. Charanjit Singh and Another*** v. ***Bharatinder Singh and Others,*** AIR 1988 P & H 123. *(Relied)* *[Para 6]*

2. ***Hans Raj and Anr.*** v. ***Jeet Kaur (deceased),*** 95 (2002) DLT 459. *(Relied)* *[Para 7]*

Counsel for the Parties:

For the Petitioner : ***Ms. Geeta Luthra, Sr. Advocate with Mr. Rohit Bhardwaj, Advocate.***

For the Respondent Nos. 3 to 6 : ***Mr. R.M. Sinha, Advocate.***