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

+ **FAO(OS) 674/2015**

RENU DHAWAN & ANR Appellants
Represented by: Ms.Radhika, Advocate

versus

SUDESH SHARMA & ORS Respondents
Represented by: Mr.Indu Shekhar, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **11.03.2016**

CM No.30504/2015

For the reasons stated in the application 60 days delay in filing the appeal is condoned.

Application is allowed.

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1. Appellants are the plaintiffs. They are the daughters of late Smt.Vidya Sharma. They litigate with the wife and children of their late brother.

2. Suit is for partition concerning property bearing municipal No.311, AGCR Enclave, Delhi-110092 as also the movable estate of late Smt.Vidya

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Sharma. Claim in the suit is on intestacy. Title to the property in favour of the mother is pleaded through the father.

3. Vide impugned order dated October 09, 2015, with reference to the defence, the learned Single Judge has observed that the appellants have not disclosed about a registered will executed by their mother as also have not referred to a deed of relinquishment dated June 28, 2012 executed by the mother in favour of their brother. The learned Single Judge has also noted that the plaintiffs have not disclosed about a relinquishment deed dated June 24, 2005 under which the three siblings relinquished their share in the property which they have inherited through their father in favour of their mother. Learned Single Judge has observed that having approached the Court with unclean hands the suit was liable to be dismissed and action initiated for contempt. So recording in paragraph 9, the learned Single Judge has in the next paragraph corrected by recording that prima-facie opinion was made out to initiate action for contempt and therefore show cause notice has been issued.

4. As regards the final impact of the impugned order, no appeal would be maintainable because only show cause notice has been issued and the appellants have yet to file a response which needs to be considered and final order passed.

5. Should appellants be held guilty of having committed contempt remedy can be availed of.

6. As regards the wording of the impugned order till paragraph 9 which shows a determinative opinion formed by the Court, we simply observe that the facts noted till paragraph 9 would be treated as not determinative but

narrative of the facts for prima-facie opinion formed in paragraph 10.

7. Needless to state in view of the response which the appellants would file to the show cause notice issued to them, the learned Single Judge shall decide whether the appellants are guilty of having committed contempt.

8. No costs.

PRADEEP NANDRAJOG, J.

A.K. PATHAK, J.

MARCH 11, 2016
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