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

+ **FAO 154/2007**

MUNFAT & ORS.

..... Appellant

Through: Mr. Sudhanshu Batra, Sr. Advocate
with Mr. Manish Sharma and Mr. N.
Dogra, Advocates.

versus

STATE

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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07.07.2017

1. This first appeal under Section 299 of the Indian Succession Act, 1925 is filed against the impugned judgment of the court below dated 2.2.2007 dismissing the petition filed for grant of letters of administration filed by the appellants/petitioners and who are the maternal grandchildren of the deceased Alladin @ Alladia. Letters of administration was sought in the petition with respect to the properties of Alladin. The petition filed was for letters of administration without the Will annexed.

2. In law, a petition seeking letters of administration and consequent grant of letters of administration will only give a right to administer the asset. An order passed granting letters of administration will not entitle a person to possession of the properties in case the properties are not in possession of the person who seeks letters of administration. A civil suit would have to be filed by the petitioners even after grant of letters of administration in case the petitioner seeks possession of the property from the custodian of evacuee property, inasmuch as, the properties of late Sh. Alladin are in possession of the custodian of evacuee property. Custodian of property was not a party to the subject petition seeking letters of administration.

3. Accordingly, learned counsel for the appellant says that although the appeal as also the main petition seeking letters of administration be disposed of as not pressed, and which is ordered accordingly, but liberty be given and which is given, that petitioners can file a civil suit in the competent court against the custodian for seeking entitlement to the estate of late Sh. Alladin on the basis of the

petitioner's claiming title in the properties on account of their inheriting the properties of late Sh. Alladin under Muslim law.

4. Also, when a civil suit is filed, the concerned court will examine the issue of applicability of Section 14 of the Limitation Act liberally in favour of the petitioners, of course in accordance with law.

5. Accordingly, the appeal and the main petition for letters of administration is treated as not pressed and the impugned judgment dated 2.2.2007 accordingly will therefore stand set aside because the letters of administration case is treated as not pressed since inception.

6. The present appeal and the petition seeking letters of administration are disposed of as not pressed with the aforesaid observations.

VALMIKI J. MEHTA, J

JULY 07, 2017

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