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

+ FAO(OS) 63/2017 & CM No.9112/2017

MUNISH KALRA

..... Appellant

Through : Mr. Kirti Uppal, Sr. Adv.
 with Ms. Aastha Dhawan,
 Adv.

versus

KRISHNA KALRA & ANR

..... Respondents

Through : Mr. Neeraj Yadav, Adv.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **18.07.2017**

1. It is submitted by Mr. Kirti Uppal, learned senior counsel for the appellant that given the order passed on the last date directing that the statement of plaintiff no.1 be recorded first, this appeal is rendered infructuous.

2. We may also note the submissions of learned counsel for the respondents to the effect that the appeal is premised on mere apprehensions in as much as the witness has not appeared to testify and there is no expression of opinion by the local commissioner that she is unable to understand his accent. In as much as the appeal is not being pressed in view of the order passed on the last date, we are not going into this aspect of the matter today.

3. We are informed that the plaintiff has moved an application for amendment of the plaint. Needless to say the aspect of recording of evidence would arise after completion of pleadings and framing of additional issues, if any. Our order that the respondent no.1 be examined at the commencement of the evidence would obviously arise after the pleadings have been completed and issues framed afresh.

4. The necessity of such prayer made by the appellant would require to be considered in the facts and circumstances which then exist.

5. It is pointed out by Mr. Kirti Uppal, learned senior counsel for the appellant and Mr. Neeraj Yadav, learned counsel for the respondents that the appellant and the respondent no.2 are the son and daughter respectively of the respondent no.1. The dispute relates to the estate of their father Late Shri L.N. Kalra. Given the close relationship between the parties, a prayer is made that they may be referred for mediation to Ms. Veena Ralli, learned organising secretary and mediator at Samadhan to explore the possibility of an amicable resolution of all disputes.

6. In view thereof, it is directed as follows :

- (i) The appeal and the application are disposed of as infructuous. In case the circumstances so warrant, it shall be open to the parties to make a request for its restitution.
- (ii) The parties or their authorised representatives shall appear before Ms. Veena Ralli in the Delhi High Court Mediation &

Conciliation Centre on 24th July, 2017 at 4 p.m. for fixation of a date for mediation. In as much as the appellant is stated to be in the United States of America, he may be joined in the mediation process by use of electronic methods of communication. It shall be open for the mediator to join any other person deemed necessary for an effective and holistic mediation.

- (iii) This appeal and the pending application are disposed of in the above terms.

Dasti to parties.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

JULY 18, 2017/kr