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

+ **FAO 288/2017**

VIJAY MER Appellant

Through: Mr. Arun Aggarwal, Advocate.

versus

STATE & ANR Respondents

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **12.07.2017**

C.M. Appl. No. 23960/2017 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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1. This first appeal is filed under Section 299 of the Indian Succession Act, 1925 and against the impugned judgment of the Court below dated 22.2.2017 dismissing the petition filed by the present appellant for grant of letters of administration to the estate of the deceased Sh. Dharam Pal. Sh. Dharam Pal was the brother of the appellant/petitioner as also the brother of the respondent no. 2 herein, and who was the sister of the deceased Sh. Dharam Pal. Respondent no. 2 before the Court below had given her no objection for grant of letters of administration to the appellant/petitioner.

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2. A reading of the impugned judgment shows that petition seeking letters of administration has been dismissed because the petitioner did not file the valuation of the immovable property of the deceased being DDA Flat No. 34B, BB Block, Shalimar Bagh, New Delhi.

3. Learned counsel for the appellant says that the appellant had sought that the immovable property be valued at circle rate and if the Court below was not agreeable to this then the Court would have given time to the appellant/petitioner to file the valuation report with respect to the immovable property. It is also stated that for valuation of the property the Collector had to be noticed as per Section 19 H of the Court-Fees Act, 1870. It is also argued that the appellant as per Section 19 I of the Court-Fees Act had to file a format set forth in the Third Schedule to the valuation of the property and with respect to which again no opportunity was given to the appellant/petitioner.

4. I take the statement of counsel for the appellant/petitioner on record that the court below did not give any opportunity to the appellant to get the valuation done and to file a valuation report including the valuation format under Section 19 I of the Court-Fees Act.

5. Accordingly, this appeal is allowed and the impugned judgment of the Court below dated 22.2.2017 is set aside and the Court below is directed to give opportunity to the appellant to get the valuation done of the aforesaid immovable property situated at Shalimar Bagh, New Delhi and thereafter the court will decide the value of the said

immovable property for appropriate Court fees to be filed with respect to the letters of administration to be granted.

6. The appeal is accordingly allowed and disposed of.

C.M. Appl. No. 23959/2017 (under Order 41 Rule 27 CPC, for leading additional evidence)

7. The appellant has filed this application for leading of additional evidence before the court below, and it is stated that if any other evidence is required to be led, the same will also be led to show the relationship of the appellant/plaintiff with the deceased Sh. Dharam Pal so that letters of administration is granted.

8. This application is allowed and the appellant will now lead evidence in the court below with respect to the relationship of the petitioner with the deceased Sh. Dharam Pal. Petitioner will ensure that there is no laxity in the leading of additional evidence.

VALMIKI J. MEHTA, J

JULY 12, 2017

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