$~9

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

\+ RFA 958/2016 & C.M. No. 45515/2016

RAJINDER JAIN & ANR. ..... Appellants

Through: Mr. Naresh Thanai with Mr. Himanshu Pathak, Advocates.

versus

STATE & ANR. ..... Respondents

Through: Mr. Vikas Mehta with Mr. Siddhartha Jain, Advocates for R-2.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

O R D E R

% **16.02.2017**

1. The appellants are aggrieved by the order dated 13.10.2016 passed by the learned trial court in a suit filed by them and the respondent No.2, Trustees of Sh. Bashi Ram and Smt. Viro Devi Jain Charitable Trust under Section 92 of the CPC, for seeking permission to sell three immovable properties acquired by the Trust, to settle a Scheme for the sale proceeds received in respect of the suit properties to be placed in a FDR and for utilization of the interest accrued on the said FDR, for achieving the objects of the Trust.

2. While disposing of the said suit in terms of the order dated 13.10.2016, a series of directions have been issued by the learned ADJ. Taking note of the fact that one of the properties belonging to the Trust, bearing No. 5256-5270 and 5400- 5401, Basti Harpool Singh, Sadar Thana Road, Delhi, has already been sold for a sum of Rs.8,60,00,000/- in terms of

an order dated 14.7.2015 passed by the High Court and the sale proceeds are lying in a FDR, directions have been issued by the learned ADJ for conversion of the said FDR into a repayment scheme of interest on a quarterly basis and for the interest amount be credited into the Trust's account at the end of every quarter. Several other directions have also been issued in the impugned order.

3. Mr. Thanai, learned counsel for the appellants states that the appellants are not aggrieved by any of the directions issued in the impugned judgment, except for the direction to the effect that the FDRs in question lying with the appellants be handed over to the respondent No.2.

4. It is the stand of the appellants that the FDRs totalling to a sum of Rs.8,60,00,000/- being the total sale consideration in respect of the immovable property mentioned above, are not available with them and are with the other four Trustees namely, Mahesh Kumar Jain, Narender Kumar Jain, Dr. Hemant Jain and Mr. Ravinder Kumar Oswal.

5. Learned counsel for the respondent No.2 denies the submission made by other side to the effect that there are four other trustees of the Trust, named above. He also denies the submission made by the other side to the effect that the FDRs in question are not in their power and possession but in the possession of other trustees. He states that as per his instructions, the appellants are in possession of the FDRs in question and the interest accrued on the said FDRs has been misused by them by using the same for chit funds, which submission is however denied by the counsel for the appellants.

6. Having regard to the fact that the appellants are not aggrieved by any of the directions issued in the impugned judgment dated 13.10.2016, except

for the final direction at para (e), calling upon them to hand over the FDRs in their possession for purpose of conversion along with any other documents in their possession, there appears no ground to entertain the present appeal except for observing that if it is the stand of the appellants that the FDRs in question are not in their possession, then they would be at liberty to take such a plea in the execution petition, if any, that may be filed by the respondents.

7. The appeal is disposed of along with the pending application.

HIMA KOHLI, J

FEBRUARY 16, 2017
ap