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

+ FAO(OS) 96/2018, Cav.553/2018 & CM Nos. 24052-24054/2018

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Date of decision : 31st May, 2018

LAXMI DASS

..... Appellant

Through : Mr. Wajeeh Shafiq and
Mr. Nimesh Chib, Advs.

versus

P P SINGH & ORS

..... Respondents

Through : Mr. P. Chandra Shekhar and
Mr. Prashant Shekhar, Advs.
for R-1 & 2

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

Cav.553/2018

The caveators have been represented and the caveat shall stand discharged.

FAO(OS) 96/2018 & CM Nos. 24052-24054/2018

1. By this appeal, the appellant Laxmi Dass (the objector in Test Case No. 95/2012) assails an order dated 27th April, 2018 passed on IA No.2665/2015, being an application under Section 151 of the CPC

which was filed by the respondent nos. 1 and 2 herein (the petitioners in Test Case No. 95/2012) seeking the following directions :

“(i) Direction to the tenants in the properties of the deceased to deposit the rent in this court;

(ii) A direction to the respondent no.2 not to indulge in unwarranted litigation in respect of the properties of the deceased; and

(iii) Letting out of the vacant portions of the properties of the deceased.”

2. It appears that with regard to the estate of Late Col.Udai P. Singh, bequest have been claimed by the appellant herein by virtue of an alleged Will dated 29th September, 2011 which is the subject matter of Test Case No. 6/2016. Shri P.P. Singh, respondent herein has filed Test Case No. 95/2012 against Lt.Col.Abhimanyu Singh and their other relatives with respect to the estate of Retd. Col. Udai P. Singh, setting up a Will dated 29th September, 2011. It is undisputed that Col. Udai P. Singh expired on 11th November, 2011.

3. The property no. C-1/13, Janak Puri, New Delhi is one of the properties which is part of the estate of Late Col. Udai P. Singh.

4. It appears that a series of lease deeds commencing from 29th December, 2015 (page 87) were executed by Sh. Laxmi Dass claiming to be the owner in possession of the property. Different portions of the property have been let out to different persons.

5. Needless to say, the respondents herein dispute the legality and validity of these lease deeds and in fact have specifically contested the right of the appellant to execute these lease deeds. The respondents have also submitted that the alleged Will relied upon by the appellant surfaced for the first time only in the year 2015.

6. So far as IA No. 2665/2015 is concerned, as is evident from the prayer clause extracted above, this application was filed by the respondents herein seeking a direction to the tenants to deposit the rent in court. On this application, by the impugned order, the learned Single Judge directed the respondents herein to collect rent from the tenants in Janak Puri and other properties and to deposit the same in a separate account.

7. The respondents were directed to open a separate account wherein the rent collected from the tenants of the properties would be deposited and to maintain the account of the rent released. These accounts were directed to be filed in court every three months.

8. We are of the view that given the rival contentions, the impugned order is the only order which would balance equities. No prejudice would result to any party if the impugned order is acted upon.

9. We make it clear that we have hereby not expressed any opinion on the merits of the rival contentions.

This appeal and application are therefore dismissed. No order as to costs.

10. We are informed by learned counsel for the respondents that pursuant to the said order, an account stands opened in the HDFC Bank. Let the details thereof be furnished to the appellant as well. The respondents shall strictly abide by the directions made by the learned Single Judge.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

MAY 31, 2018/kr



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