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

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+ **FAO(OS) 203/2019**

SUDESH KUMARI & ORS

..... Appellants

Through: Mr P.D. Gupta, Senior Advocate with
Mr N.K. Bhardwaj and Mr Abhishek
Gupta, Advocates.

versus

ROHAN DUA & ORS

..... Respondents

Through: None.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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09.10.2019

CMs 44456-44457 (exemption)

1. Allowed, subject to all just exceptions.

FAO(OS) 203/2019 & CM 44455/2019 (stay)

2. The present appeal is directed against an order dated 13th August, 2019 passed by the learned Single Judge dismissing the application of the Appellants/Defendant Nos. 2 to 9 being IA No.11059/2019 under Order VII Rule 11 of the Civil Procedure Code, 1908 ('CPC') seeking rejection of the plaint on the ground that it is premised on unregistered gift deeds.

3. The admitted position is that the suit itself is at the stage of evidence and the first witness of the Plaintiffs is currently under cross-examination.

4. Mr P.D. Gupta, learned senior counsel for the Appellants, submits that the suit has been at the stage of evidence for over three years now and there is no prospect of it being disposed of heard at an early date. He further points

out that the learned Single Judge has declined to clarify that the observations in the impugned order on merits would not affect the final outcome of the suit.

5. As far as the latter submission is concerned, the Court clarifies that the observations made by the learned Single Judge on merits in the impugned order, would not affect the final decision in the suit, which will be based on the evidence led by the parties.

6. Mr Gupta then urges that the Appellants should be permitted to apply to the learned Single Judge to treat the issue concerning the admissibility of the unregistered gift deeds to be treated as a preliminary issue.

7. It will be open to the Appellants to apply to the learned Single Judge in that regard and such a plea, if made, will be considered in accordance with law. It is, however, clarified that such an application would not come in the way of the evidence continuing to be recorded in the suit. Considering that the suit is pending for over a decade now, the parties are at liberty to request the learned Single Judge for an expeditious disposal, by fixing strict time schedules for completion of the recording of evidence.

8. The appeal is disposed of in above terms. The pending application is also disposed of. No costs.

S.MURALIDHAR, J

TALWANT SINGH, J

OCTOBER 09, 2019/*rd*