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

+ **FAO(OS) 237/2019**

RENU SHARMA

..... Appellant

Through Mr. Rajat Wadhwa, Mr. Honey Jain,
Mr. Karanpreet Singh and
Mr. Devanshu Chauhan, Advocates

versus

BHAVNA TANEJA & ORS

..... Respondents

Through None

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **25.11.2019**

CM APPL.No. 50810/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

CM APPL.No. 50809/2019 (delay)

2. For the reasons stated in the application, the delay in filing the appeal is condoned and the application is disposed of.

FAO (OS) No. 237/2019

3. The Defendant No.2 in CS(OS) No. 254/2017, which is a partition suit filed by Respondent No.1/Plaintiff herein, has filed this appeal aggrieved by an order dated 3rd July, 2019 passed by the learned Single Judge in IA No.13766/2019.

4. In the above suit for partition, a prayer was made in the above application under Order XL Rule 1 of the Code of Civil Procedure ('CPC') to appoint a Receiver to collect the rents of Flat Nos. 521 & 522, World Trade Centre, Barakhamba Lane, New Delhi.

5. Admittedly as of date, the rents of the above two flats have been received by Defendant No.1, who in his defence has put forth a Will, stated to have been executed by the late father bequeathing the property entirely to him. The Will is of course contested. By the impugned order the learned Single Judge has directed that “the defendant No.1 will file an affidavit indicating the rents being received from the said suit properties. He will continue to file necessary accounts every year by 31st of July. He will also place on record a copy of the necessary lease deeds entered into with the respective tenants.”

6. Learned counsel for the Appellant/Defendant No.2 submits that at least 1/4th of the rent should be asked to be deposited in the Court. He also refers to an earlier interim order dated 29th May, 2017 passed by the learned Single Judge on the first date of hearing of the suit directing the parties to maintain status quo and submits that the present impugned order contradicts the said order. Finally, it is submitted that there are observations in the impugned order that appear to pre-judge the merits of the case as regards the validity of the Will and are likely to prejudice the Appellant.

7. Having considered the above submissions and having perused the documents placed on record, the Court is not inclined to interfere with the impugned order, in so far as it declines to appoint a Receiver but directs Defendant No.1 to file the necessary accounts in the Court every year by 31st July. It will be open to the Appellant, if any discrepancy is noticed in the said accounts, to apply to the learned Single Judge for appropriate directions.

8. The Court does not find the impugned order to be in contradiction of the earlier order dated 29th May, 2017 requiring parties to preserve the status quo. As regards, the observations in the impugned order touching on the merits of the case, it is clarified that all such observations are to be treated as tentative in nature and not binding on the learned Single Judge as far as the final judgment in the suit is concerned.

9. The appeal is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 25, 2019

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