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

+ **FAO(OS) 58/2019**
ARUN SOOD

..... Appellant

Through: Mr. P.D. Gupta, Sr. Adv. with Mr.
Atul Gupta, Adv.

versus

ASHOK BAURY & ORS

..... Respondent

Through: Mr. Prosenjeet Banerjee, Adv. for
respondent/ caveator.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

01.04.2019

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C.M. No. 15032/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

CAV No. 334/2019

Counsel for the caveator has appeared. The caveat is, accordingly, discharged.

FAO(OS) 58/2019 & C.M. No. 15031/2019

The appellant assails the order dated 14.03.2019 passed by the learned Single Judge in I.A. No. 14501/2018 passed under Order XI Rule 12 and 14 CPC. By the impugned order, the learned Single Judge has permitted the appellant to place the Registered Will of Late Bimla Sood @ Bimla Devi dated 28.12.2007 in a sealed cover and has directed that a copy thereof is

provided to the petitioner in Testamentary Case No. 11/2018, who is the respondent herein.

Firstly, we find that the present appeal is not maintainable under Order XXXIII Rule 1 CPC.

The submission of learned senior counsel for the appellant is that the impugned order is the nature of final determination of rights. This submission is made to place reliance on *Shah Babulal Khimji vs Jayaben D. Kania And Anr*, AIR 1981 SC 1786.

We do not agree with this submission. All that the learned Single Judge has done is to require the appellant to serve a copy of the said Will upon respondent No. 1. We may observe that the testamentary case has been preferred to seek probate of the Will of Smt. Bhagwanti Devi. Respondent Nos. 11 and 12 in the present appeal, namely Mrs. Sushma Nath and Ms. Neelam Sood have filed their objections in the said testamentary case and, in paragraph 7 of their preliminary objections/submissions, they have sought to place reliance on the Registered Will dated 28.12.2007 attributed to late Mrs. Bimla Sood, who is the daughter of late Smt. Bhagwanti Devi. It is in this background that the learned Single Judge passed an order on 31.08.2018 – directing Relative No. 10 i.e. the appellant herein to produce the said Will of Late Mrs. Bimla Sood @ Bimla Devi. That order was assailed in FAO(OS) No. 145/2018. That appeal was dismissed as withdrawn on 04.10.2018, while recording the request of the appellant that the said Will may be produced in a sealed cover. Consequently, I.A. No. 14501/2018 was moved by the appellant herein to produce the Will in a sealed cover, which has been disposed of by the impugned order as taken note of hereinabove.

In our view, it cannot be said that the impugned order is an order decides an issue of moment or that it decides inter se rights between the parties finally. The present appeal is, therefore, not maintainable. The same is dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 01, 2019

N.Khanna