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

+ **FAO(OS) 73/2019**

AJAY MALHOTRA

..... Appellant

Through: Mr. Rajat Aneja with Mr. Sambit
Nanda, Advs.

versus

THE STATE & ORS

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

10.04.2019

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C.M. No. 16965/2019

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

FAO(OS) 73/2019 & C.M. No. 16964/2019

The appellant has preferred the present appeal to assail the order dated 25.03.2019 passed by the learned Single Judge in I.A. No. 1412/2019 preferred by respondent No. 2 to seek modification of an earlier order dated 23.07.2018 passed in I.A. No. 9509/2018 in Testamentary Case No. 37/2018. Vide the impugned order the learned Single Judge has held that the injunction order dated 23.07.2018 would not affect the right of respondent No.2 to approach the banks for release of 50% of amounts in the FDRs enumerated in para 1 of the order. However, respondent No. 2 has been

directed to re-deposit 50% of the FDRs and post office scheme receipts enumerated at Serial Nos. 1 to 6 of para 25 of the order as well as the entire amount withdrawn from the savings account, namely Rs. 1,56,000/-, Rs.93,000/- and 2,75,000/- in Court.

After some arguments, Mr. Aneja submits that all the pleas raised by the appellant in the present appeal shall be raised in the probate proceedings at the final stage considering the fact that the impugned order is an interlocutory order and observations made in the impugned order may not tantamount to final and binding findings either on the fact or in law returned by the learned Single Judge.

The appeal is, accordingly, dismissed as withdrawn with liberty as prayed.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 10, 2019

N.Khanna