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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 132/2018 & CM APPL. 4117/2018
BIMAL KAPOOR Petitioner
Through Mr. Tarun Biswal, proxy counsel for
Mr. Mukesh M. Goel, Adv.

versus

JANAK RAJ KAPOOR & ORS Respondent
Through Mr. Deepak Dewan, Ms. Preeti
Wakadikar, Advs. for R1.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **15.03.2019**

Vide order dated 02.02.2018, notice was only directed to be issued to the first respondent i.e. the respondent no. 1 and thus none of the other respondents have been called upon to make submissions in relation to the petition filed.

Learned Counsel for the petitioner seeks time for the presence of the arguing counsel who is stated to be out of town.

It is not considered appropriate to grant this request.

The petitioner assails the impugned order dated 22.09.2017 of the Trial Court of the learned ADJ-14, Central in CSDJ-13501/16 vide which the application under Section 151 of the CPC filed by the petitioner herein seeking directions to the tenants to not to release the rental income to the defendant no. 1 i.e. the respondent no. 1 and to keep the same in fixed deposit was declined with it further having been observed to the effect that the defendant no. 1 i.e. the respondent no. 1 herein was to furnish an

undertaking and the indemnity bond to the learned Trial Court and the defendant no. 1 i.e. the respondent no. 1 herein would pay the amount of rent to the plaintiffs and the other defendants as per the directions of the Court at the stage of the final judgment and that there was no need at the stage of the proceedings in the learned Trial Court to ask the tenants to keep the rent amount in fixed deposit and not to release the same to the defendant no. 1 i.e. the respondent no. 1 herein. The impugned order also indicates that there are disputes in relation to the will sought to be propounded by the petitioner in as much as whereas the plaintiff i.e. the petitioner herein has relied upon a registered Will dated 12.03.1999 stated to have been executed by his father to claim the partition of the shop No. 2, Old Rajinder Nagar, New Delhi, the main contesting defendant to the said suit has opposed his claim on a Will stated to have been executed on 21.06.2011 by his father.

As per the averments made in the plaint in CSDJ-13501/16, it is the defendant no. 4 arrayed as the tenant being the respondent no. 4 to the present petition i.e. Syndicate Bank qua whom it has been submitted on behalf of the respondent no. 1 by his learned counsel present to the effect that the said respondent no. 4 has already submitted a letter dated 12.09.2018 to the respondent no. 1 herein i.e. the petitioner no. 1 before the learned Trial court to the effect that it has handed over the possession of the premises to the respondent no. 1 on 11.12.2018 which possession is stated to have already been received by the respondent no. 1 on 31.12.2018.

Apparently apart from the petition having become infructuous, it is apparent that there is no infirmity in the impugned order in as much as all rights of the petitioner and the respondents to the present petition and parties to the *lis* are adequately protected vide the impugned order dated 22.09.2017

vide which the respondent no. 1 herein as the defendant no. 1 to the said suit has been directed to furnish an indemnity bond to the learned Trial Court that he shall pay the amount of rent to the plaintiff and other defendants as per the directions of the Court on the final judgment in the event of there being no such directions, which indemnity bond is stated to have been submitted.

The petition and the accompanying application are thus declined.

ANU MALHOTRA, J

MARCH 15, 2019/MK