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

+ **FAO(OS) 181/2019 and CM APPL. 42331/2019 (stay)**

**PRABODH KUMAR BAISIWALA & ANR** ..... Appellant

Through: Mr.Ashish Mohan and Mr.Akshit  
Mago, Advocates.

versus

**ARCHANA BAISIWALA & ORS** ..... Respondent

Through: Mr.Virender Goswami, Ms.Soni  
Singh and Mr.Shamik Saha,  
Advocates for R-1.  
Mr.TVS Raghavendra Sreyas and  
Ms.Sneh Dhillon, Advocates for R-2.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

% **22.10.2019**

1. Learned counsel for the Respondent has drawn the attention of the Court to the judgment of the Division Bench of this Court in **Anil Kapoor v. S.R. Sharma 2009 LawSuit (Del) 1381** to argue that the present appeal which is filed against an order rejecting the plea of the Respondent No. 2 and Defendant No. 4 in the Testamentary Case for filing additional documents is not an appealable one.

2. Learned counsel for the Appellant submitted that in view of the reasons given by the learned Single Judge to dismiss the application, the order should be construed as an order finally deciding a lis which would be

appealable in terms of the judgment in Supreme Court in ***Shah Babulal Khimji v. Jayaben D. Kania 1981 AIR (SC) 1786.***

3. The Court is unable to agree with the above submissions of the learned counsel for the Appellant. The impugned order does nothing other than dismiss an application for filing additional documents. The mere fact that the reasons for such dismissal may amount to expression of the opinion of the Court on any particular issue will not make it a final order deciding the lis between the parties. In any event if the ultimate decision in the case is against the present Appellant, it will be open to the Appellant to assail such decision in accordance with law and urge all the grounds available to the Appellant including the ones urged in the present appeal in support thereof.

4. The appeal is accordingly dismissed and the pending application is also disposed of.

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**OCTOBER 22, 2019**

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