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

+ **FAO (OS) 198/2017 & CM APP No. 23999/2017**

JEEWAN KUMAR KHANNA Appellant
Through: Mr. Saran Soni and Mr. Himanshu
Dubey, Advocates.

versus

ASHA TANEJA & ANR. Respondents
Through: None

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **15.02.2019**

The appellant assails the order dated 02.05.2017 passed by the learned Single Judge in IA No.5378/2017 in CS (OS) No. 146/2012. The appellant is the defendant in the said suit. The appellant had preferred the aforesaid application under Section 10 of CPC to seek stay of trial in the suit proceedings on the premise that the probate proceedings in respect of suit property had been preferred in the State of Himachal Pradesh and arising from the judgment of the trial court an appeal was pending in the High Court of Himachal Pradesh at the relevant point of time.

The learned counsel for the appellant submits that the said appeal has been allowed by the learned Single Judge in favour of the appellant. Thus, as on date, there is no proceeding pending in the Himachal Pradesh High Court in relation to the suit property, wherein, substantially the same issue arise as are raised in the present proceedings for partition. Thus, in any event, the

application under Section 10 of CPC moved by the appellant cannot survive. The present appeal, therefore, has become infructuous.

Learned counsel for the appellant, however, expresses the concern that the wordings used in the impugned order may come in the way of early disposal of the suit despite the order being passed by the Himachal Pradesh High Court in the appellant's appeal. In case of any such eventuality, it shall be open to the appellant to take appropriate steps.

VIPIN SANGHI, J.

A. K. CHAWLA, J.

FEBRUARY 15, 2019

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