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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA(OS) 64/2024 & CM.APPL.69370/2024

MUNEESH TANEJA

.....Appellant

Through: Mr.Pankaj Vivek with Mr.Naveen
Malik, Ms.Manpreet Gill, Advs.
Appellant in person.

versus

MRS. DEVYANI TYAGI & ANR.

.....Respondent

Through: Ms.Nidhi Mohan Parashar with
Ms.Akansha Nehra, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

27.11.2024

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1. The present appeal seeks to assail the judgment and decree dated 23.09.2024 passed by the learned Single Judge in CS(OS) No.827/2022. Vide the impugned judgment, the learned Single Judge has, with the consent of the appellant/defendant passed a preliminary decree of partition declaring all the parties i.e. appellant and the two respondents as owners of 1/3rd share each in the estate of late Smt.Usha Taneja.
2. In the light of this position when the impugned judgment decree has been passed, with the consent of the appellant, we have put to learned counsel for the appellant, as to how, the present appeal would be maintainable.
3. In response, learned counsel for the appellant draws our attention to para 11 of the impugned judgment, to contend that the learned Single Judge while passing a preliminary decree of partition has simultaneously passed a final decree qua the fixed deposit accounts



enlisted at serial no.1, 2, 4, 5 & 6 of Schedule D-1 of the written statement. This, he contends, was impermissible especially when it is the appellant's, case that the respondents have already withdrawn huge amounts from the bank accounts of Late Smt. Usha Taneja.

4. Learned counsel of the respondents, who appears on advance notice denies this plea and submits that all withdrawals by the respondents from the bank of Late Smt Usha Taneja were duly accounted for.
5. Having considered the submissions of learned counsel for the parties and perused the impugned judgment, we find that though the appellant is correct in urging that the learned Single Judge has in para 11 of the impugned judgment observed that a final decree in respect of the fixed deposit accounts was being passed, simultaneously observations have been made in para 13 of the impugned judgment, that, appropriate orders with respect to the distribution/preservation of the said fixed deposit accounts will be passed on the next date of hearing.
6. In these circumstances, when the exercise for the manner of division of the fixed deposit accounts is yet to be undertaken by the learned Single Judge, no prejudice has been caused to the appellant by the observations made in para 11 regarding a final decree of partition being passed in respect of the fixed deposit accounts of the judgment. We, therefore, find no reason to interfere with the impugned judgment and decree.
7. Needless to state, it will be open for the appellant to raise all pleas permissible in law before the learned Single Judge including his plea regarding withdrawal from bank accounts of late Smt.Usha Taneja,



having been made by the respondents.

8. In the light of the aforesaid, while disposing of the appeal along with the pending application as not being maintainable, we clarify that while passing a final decree of partition dividing the shares of all the parties in the movable as also the immovable properties as per law, the learned Single Judge will consider all the contentions of the parties including the appellant's plea regarding withdrawals from bank accounts of Smt.Usha Taneja, having been made by the respondents.

REKHA PALLI, J

NOVEMBER 27, 2024/sr

SAURABH BANERJEE, J