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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 248/2015
SURESH KUMAR CHAUDHARY

..... Appellant

Through : Counsel for the appellant appearance
not given.

versus

JAI BHAGWAN & ORS

..... Respondents

Through : Mr.Abhik Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **06.11.2019**

CM APPL No.48141/2019

This is an application under Section 151 CPC on behalf of the appellant for allowing him to lead evidence in civil suit no.530/2017, pending before the learned Additional District Judge- Dwarka, New Delhi. A suit for specific performance was filed by the respondents before the learned Trial Court which was decreed vide impugned judgment dated 13.07.2012 and against which the present appeal is pending.

It is the case of the appellant that his deceased father had allegedly executed an Agreement to Sell in favour of the respondent no.1 in respect of the subject property, but in fact his father also had executed a Will dated 12.07.1996 wherein he bequeathed his entire properties in favour of the appellant herein.

It is further argued though in the present case no issue was

framed qua the validity of the Will dated 12.07.1996, yet the learned Trial Court gave a finding that the Will dated 12.07.1996 is a forged Will and such finding is coming in the way of the appellant. However against such finding the appellant had already filed an appeal viz. RFA No.432/2015 which was dismissed as withdrawn vide order dated 14.10.2015, hence it is submitted by the respondent the said finding cannot be challenged now in the present appeal so as to allow him to lead the evidence qua Will in a separate civil suit no.530/2017 and at best he may move to appropriate forum and not this Court.

The learned counsel for the appellant does not press this application at this stage, hence be kept pending till the pendency of this appeal.

List on 11.12.2019 for final hearing.

YOGESH KHANNA, J.

NOVEMBER 06, 2019

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