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

+ **CS(OS) 535/2016**

SHASHI AGRAWAL

..... Plaintiff

Through: Mr. Viraj R. Datar, Senior
Advocate with Mr. Nitish
Chaudhary & Mr. Saurav Joon,
Advocates. [M:-9810575121]

versus

VIJAY KUMAR AGRAWAL & ORS

..... Defendants

Through: Ms. Shalini Kapoor, Mr. Siddharth
Aggarwal & Ms. Sukriti Mago,
Advocates for D-1 & 9. [M:-
9810160155]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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17.01.2023

I.A. 13023/2016(Application on behalf of the plaintiff under Order XXXIX Rule 1 and 2 of the CPC)

1. Mr. Viraj R. Datar, learned Senior Counsel for the plaintiff, does not press the application in view of the order dated 19.12.2016 by which the *ex parte ad interim* order was vacated.

2. The application stands dismissed as not pressed.

I.A. 16250/2016(Application on behalf of the plaintiff under Order XXVI Rule 10A seeking directions)

1. By the order dated 29.11.2017, it was directed that this application would be heard by the Joint Registrar and certain directions were given in paragraph 6 of the said order. I am informed that the aforesaid directions

CS(OS) 535/2016

Page 1 of 2



have not yet been complied with.

2. It may be mentioned that the aforesaid order was carried in appeal by way of FAO (OS) 322/2017 [*Vijay Kumar Agarwal & Anr. vs. Shashi Agrawal & Ors.*]. The Division Bench by its order dated 27.11.2019 disposed of the appeal with the following directions:-

“4. Mr. Sanjeev Sindhvani, learned senior counsel for the Appellants/Defendants Nos.1 and 9 states that the observations by the learned Single Judge in the impugned order regarding the photocopy/attested/true copy of the Will appear to indicate a view that might have a bearing on the final outcome of the suit.

5. The Court finds that the observations can at the highest be stated to be only be a prima facie and tentative view, and cannot be construed as expressing the final opinion of the Court. It is needless to state that the final view in the suit will be taken uninfluenced by the said observations in the impugned order.

6. Likewise, it is clarified that the directions issued in the impugned order will not be construed as preventing the present Appellants from proving the Will propounded by them in accordance with law.”

3. At this stage, therefore, learned counsel for the parties submit that I.A. 16250/2016 may be disposed of by the Joint Registrar prior to framing of issues.

4. List I.A. 16250/2016 before the Joint Registrar on 06.03.2023 in terms of paragraph 6 of the order dated 29.11.2017.

CS(OS) 535/2016

List before the Court on 22.05.2023.

PRATEEK JALAN, J

JANUARY 17, 2023

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