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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RSA 313/2007

TILAK RAJ GHAI & ORS

Through

..... Appellant

Mr. G.P. Thareja, Advocate with
Mr. R.S. Mahla, Advocate and
appellant No.2 in person.

versus

SRIMATI PREM. ARORA

Through

..... Respondent

Mr. M. Datta, Advocate for R-1.
Mr. K.S Goswami, Advocate for
R-2.

CORAM:

HON'BLE MS. JUSTICE ARUNA SURESH

ORDER

22.09.2009

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**CM No.16556/2008 (O.1 R.10 r/w O.41 R.33 & O.42 CPC) in
RSA 313/2007**

Applicant Rajiv Ghai is arrayed as respondent No.2 in this appeal. Initially he was one of the defendants before the trial court and one of the respondents before the First Appellate Court. The impugned order of the appellate court is dated 10.9.2007. Admittedly, till date applicant has not filed any separate appeal against the said judgment and decree of the first appellate court. Since appellant has sought permission to withdraw this appeal after having delivered the vacant peaceful possession of the suit

RSA 313/2007

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property to respondent No.1 on or before 30.4.2009, this application cannot be allowed.

Applicant who did not choose to file appeal within the period of limitation cannot be permitted to continue with this appeal, especially when the appellants do not want to pursue the same.

Hence, under the circumstances of this case, I find no merits in this application and the same is accordingly dismissed.

RSA 313/2007 & CM No. 5419/2009 (permission to withdraw the appeal)

Learned counsel for the appellant submits that physical possession of the property in suit has been delivered to respondent No.1 on or about 30.4.2009. Since possession has been delivered, he be permitted to withdraw the appeal.

In view of the statement, the appeal is hereby dismissed as withdrawn.

Pending applications stand disposed of.


ARUNA SURESH, J.

SEPTEMBER 22, 2009
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