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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 2430/2000**
RAME AND ORS Plaintiffs

Through: None.

Versus

DHANPAL AND ORS. Defendants

Through: Mr. Vivek Tandon & Mr. Sourabh
Luthra, Advs. for D-6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **10.11.2016**

IA No.7014/2016 (of the defendant no.6 for setting aside of the compromise decree)

1. This order is in continuation of the earlier order dated 2nd November, 2016.
2. Though the counsel for the applicant / defendant no.6 on 2nd November, 2016, upon this Court putting to the counsel as to what was the defence of the applicant / defendant no.6 to the suit even if the compromise decree was to be set aside inasmuch as this Court was of the opinion that the suit would have been decreed against the applicant / defendant no.6, had sought time to advice his client but today states that his client is not agreeable and has been heard.
3. The plaintiff had instituted this suit for possession of land and for recovery of *mesne profits* / damages for use and occupation pleading that though the land was agreed to be sold but the sale was never completed and

the defendants were in unauthorized possession of the land. It was for the aforesaid reason and finding that the defendants had no defence to the suit and the plaintiffs had still agreed to compromise with the defendants and given half the land to the defendants, that the suggestion aforesaid was given to the counsel for the defendant no.6.

4. I am of the *prima facie* view that even if the decree has to be set aside, the suit has to be decreed forthwith in favour of the plaintiffs and against the defendants for recovery of possession of the entire land and an enquiry into damages has to be conducted.

5. At this stage, the counsel for the applicant / defendant no.6 seeks passover.

6. Post passover, the counsel for the applicant / defendant no.6 states that the applicant / defendant no.6 is present in Court and withdraws the application.

7. Dismissed as withdrawn.

RAJIV SAHAI ENDLAW, J

NOVEMBER 10, 2016

‘gsr’..