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

+ **CONT.CAS(C) 145/2016**

HARWANT KAUR (DECEASED) THR LR Petitioner/Relator

Through: Mr. K.V. Girish Chowdary, Adv.

Versus

S RAGHUBIR SINGH ARORA & ORS Respondents

Through: Ms. Jyoti Taneja, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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19.02.2016

CM No.5921/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

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3. Contempt is alleged of the order dated 28th January, 2015 in RFA No.590/2014.
4. The order of which contempt is averred is on an application under Order XXXIX Rule 1&2 of the Code of Civil Procedure, 1908 (CPC).
5. The Division Bench of this Court in *Bimal Chandra Sen Vs. Kamla Mathur* 22(1982) DLT 33 subsequently followed in *J.R. Jindal Vs. Family Planning Association of India* 80 (1999) DLT 464 has held that in such situation petition under the Contempt of Courts Act, 1971 is not the remedy but the application under Order XXXIX Rule 2A of the CPC is to be filed.
6. The counsel for the petitioner / relators refers to *Prithawi Nath Ram Vs. State of Jharkhand* (2004) 7 SCC 261, but that is not on this aspect of the matter.
7. The petition is thus dismissed with liberty however to the petitioner to approach under Order XXXIX Rule 2A of the CPC in RFA No.590/2014.

No costs.

RAJIV SAHAI ENDLAW, J

FEBRUARY 19, 2016/‘gsr’..