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

+ RFA 315/2015

BAKHTAWAR SINGH Appellant

Through: Mr. Tabassum Firdause, Adv.

Versus

BAKHTAWAR SINGH SINCE

DECEASED THR LRS

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.03.2016**

1. The counsel for the appellant states that the appellant died in the month of January, 2016 and seeks time to substitute the legal representatives of the appellant.
2. The appeal impugns a judgment and decree of dismissal as barred by time of a suit filed by the appellant for declaration of rights in immovable property and for mandatory injunction for restoration of possession of the property.
3. The appeal has been listed before this Court on 8th May, 2015, 29th July, 2015 and 5th November, 2015 and has always been adjourned on the request of the counsel for the appellant, though trial court record has been requisitioned.
4. The counsel for the appellant is today also unable to tell as to who are the legal representatives of the appellant and who has informed the counsel of the death of the appellant.

5. Be that as it may, it is found that the judgment and decree appealed against is of the Court of Sh. Shailender Malik, Civil Judge, Rohini Courts, Delhi. Though the decree sheet from which the court fees paid on the suit could have been gauged has not been filed but from the copy of the plaint filed, it transpires that the valuation of the suit for the purpose of court fees and jurisdiction was Rs.200/- for the relief of declaration and Rs.130/- only for the relief of injunction. The appellant in the opening sheet filed with this appeal has also shown the valuation for the purpose of court fees and jurisdiction as Rs.200/- and Rs.130/- respectively.

6. This Court is not the Court of minimum pecuniary jurisdiction within the meaning of Section 15 of the Code of Civil Procedure, 1908 for entertaining this appeal and the filing of the appeal and the pendency thereof in this Court since May, 2015 is misconceived.

7. The Registry ought to have noticed that the appeal did not lie before this Court.

8. The appeal is thus dismissed with liberty however to the appellant / legal heirs of the appellant to approach the appropriate Court.

No costs.

RAJIV SAHAI ENDLAW, J

MARCH 30, 2016

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