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

+ **FAO 298/2016**

FIROZ KHAN & ORS

.....Appellants

Through: Mr. Rajul Rajpal and Mr. Deepak
Chauhan, Advocates

versus

SHOKAT ALI

..... Respondent

Through: Mr. Narender Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

29.08.2016

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Appellants/plaintiffs' application for stay stands dismissed vide impugned order which is challenged by learned counsel for appellants on the ground that appellants' main contention of their father signing in Urdu has not been dealt with in the impugned order. It is further contended that the Will set up by respondent to defeat appellants' suit for possession is apparently forged one.

On the last date of hearing, learned counsel for respondent had submitted that after vacation of the stay order by the trial court, respondent is raising construction over the suit property and he has instructions to submit that in the event of appellants succeeding in the pending suit, the property as it is with construction so raised would be handed over to appellants.

It was also submitted by learned counsel for appellants that the construction so raised by the respondent be at the risk of respondent and the construction be strictly in accordance with law and no third party interest be created by respondent.

In view of aforesaid stand taken by both the sides, impugned order of 4th March, 2016 is modified to the effect that respondent is permitted to raise the construction on the suit property strictly in accordance with law while making it clear that in the event of appellants succeeding in the pending suit before the trial court, the suit property with construction so raised thereon as per law would be handed over to appellants without any claim whatsoever qua the construction raised thereon and that no third party interest would be created in the suit property.

With aforesaid modification, the appeal stands disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 29, 2016

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