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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 572/2013**
K K MODI

..... Appellant
Represented by : Mr.Sudhanshu Batra, Sr. Adv.
with Mr.Pravin Bahadur,
Ms.Mallika Joshi, Mr.Kishan
Rawat, Mr. Rajan Narain,
Advs.

versus

D K MODI & ORS

..... Respondent
Represented by : Mr.Saurabh Kirpal,
Ms.Jayashree Shukla,
Mr.Nilesh Kumar and
Ms.Saloni Choudhry, Advs. for
R-1
Mr.Gaurav Mitra, Ms.Manmeet
Kaur, Mr.Yogendra Misra and
Mr.Yashvardhan Bandi, Advs.
for R-3

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER
08.11.2016

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1. Issue which arises in the instant appeal is the same which arises
FOA(OS) No.522/2013. The said appeal has been dismissed as withdrawn
on not being pressed by the appellant thereof : Sh.M K Modi.

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2. The issue which arises for consideration relates to applications filed under Order 7 Rule 11 of the Code of Civil Procedure for rejection of the plaint. With respect to said issues pressed in the applications for seeking rejection of the plaint concededly issues have been settled in the suit.
3. Accordingly, we do not intend to dwell into the merits of the instant appeal and would rest at dismissing the appeal clarifying that we have not expressed any opinion on the merits of the controversy.
4. Needless to state the issues pertaining to non-joinder of the necessary party as also the suit being barred by limitation have been settled in the suit and therefore would be decided by the learned Single Judge.
5. If the appellant presses for both or any of the issue to be treated as a preliminary issue, said request would be decided by the learned Single Judge as per law keeping in view of Sub-rule 2 of Rule 2 of Order 14 of the Code of Civil Procedure.
6. Appeal is disposed of observing as above.
7. No cost.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

NOVEMBER 08, 2016
VLD