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

\+ C.R.P. 144/2016

RISHI ANAND & ANR ..... Petitioners
Through Mr.Sandeep Sethi, Sr.Advocate with Ms.Sujata Kashyap & Mr.Ramesh Kumar, Advocates

versus

RAUNAK SINGH & ORS ..... Respondents
Through

**CORAM:**
**HON'BLE MR. JUSTICE JAYANT NATH**

**O R D E R**

*%* **09.09.2016**

**CM No.33079/2016** *(exemption)*

Allowed subject to all just exceptions.

**CM No.33080/2016** *(delay)*

This is an application filed under Section 5 of the Limitation Act seeking condonation of delay of 8 days in filing the accompanying civil revision petition. For the reasons stated in the application, the delay of 8 days in filing the accompanying civil revision petition is condoned and the application is disposed of.

**CRP No.144/2016**

The learned senior counsel appearing for the petitioners has submitted that a perusal of the plaint would show that there is mis-joinder of cause of action and parties. He submits that as far as defendants No.1 to 3/petitioners are concerned, the only relief claimed against them is recovery of rent. As

far as the other defendants is concerned, they are said to be the co-owner of the suit property and against them relief of partition is sought. He submits that the suit is hit by Order 1 Rule 3 Order 2 Rule 3 CPC as plaintiff has clubbed different cause of action against different defendants.

A perusal of the application filed by the petitioners under Order 7 Rule 11 CPC shows that no such plea has been raised before the trial court. The trial court also has not had an opportunity to deal with the said submission.

At this stage, the learned senior counsel for the petitioners seeks liberty to withdraw the present petition with liberty to move an appropriate application before the trial court.

Granting leave and liberty to the petitioners to move an appropriate application to urge the aforesaid grounds, before the trial court in a fresh application, the present petition stands dismissed as withdrawn.

**JAYANT NATH, J.**

**SEPTEMBER 09, 2016/v**