

\$~16

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

+ RFA 855/2016 & C.M. Nos. 40582-40583/2016

SAROJ

..... Appellant

Through: Mr. P.K. Nayyar, Advocate.

versus

PARVEEN KUMAR & ANR

..... Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

02.11.2016

%

1. The present appeal has been instituted by the appellant(mother of the respondent No.1 & mother-in-law of the respondent No.2), assailing the judgment and decree dated 18.5.2016, passed by the learned ADJ in a suit for possession, damages and permanent injunction instituted by her in respect of part of premises No.D-24/24, Gali No. 6, Vijay Colony, 3rd Pusta, New Usmanpur, Delhi.

2. Under the impugned judgment, the trial court has held that the appellant (plaintiff in the suit) has miserably failed to prove the ownership of the suit premises and is therefore disentitled from seeking a decree of possession and damages etc. against the respondents. It has also been observed that the appellant claims herself to be the owner of the suit premises upon the demise of her husband on the ground that all his legal heirs, namely, the respondent No. 1, another son and a daughter had

relinquished their shares in her favour vide Relinquishment Deed dated 02.09.2013, but the said document is an unregistered one, having only been notarized. The trial court has gone on to note that the respondent No.1 did not oppose the suit instituted by his mother, the appellant herein in view of a strained relationship with his wife, respondent No.2 and the said suit is only an attempt to throw her out from the shared household, when he has a share therein.

3. After addressing arguments for some time, learned counsel for appellant seeks leave to withdraw the present appeal. He requests that as he is withdrawing the appeal, the court fees affixed thereon may be refunded.

4. Leave, as prayed for, is granted. The present appeal is dismissed as withdrawn along with the pending applications.

5. Having regard to the fact that the appeal has been withdrawn at the stage of admission itself, the Registry is directed to issue a certificate for refund of 75% of the court fee affixed on the appeal, in favour of the appellant.

HIMA KOHLI, J

NOVEMBER 02, 2016

ap