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

+ RSA 293/2016

MAITREY BUDDHA VIHAR PRABANDHAK SAMITI (REGD)

..... Appellant

Through: Mr. R.S. Bhalla, Advocate with Mr.
Ajay Thakur, Advocate.

versus

ANOKHEY LAL KARDAM & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **30.09.2016**

C.M. No.36344/2016 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

C.M. No.36345/2016 (condonation of delay)

2. For the reasons stated in the application, delay of 13 days in
filing the appeal is condoned.

C.M. stands disposed of.

**+ RSA No.293/2016 and C.M. Nos.36342/2016, 36343/2016 (stay) &
36341/2016 (Under Order 1 Rule 3 CPC)**

3. This Regular Second Appeal is filed against the concurrent

RSA No.293/2016

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judgments of the courts below; of the trial court dated 26.9.2015 and the first appellate court dated 18.5.2016; by which the suit of the appellant/plaintiff has been dismissed seeking execution of the judgment and decree dated 25.10.2010.

4. By the judgment and decree dated 25.10.2010, the appellant/plaintiff as an elected officer bearer/secretary of the Maitrey Budha Vihar Prabandak Samiti was held entitled to the records of the society against the officer bearer who had lost the elections. It is undisputed that thereafter fresh elections have been held, the newly elected office bearers have taken charge, and the newly elected office bearers have received records from the erstwhile office bearers. In fact, in execution of the decree dated 25.10.2010, the newly elected office bearer Sh. D.K. Gautam filed objections against execution and which objections were allowed by the executing court vide order dated 19.8.2014 holding that the judgment and decree dated 25.10.2010 is infructuous because of fresh elections having been held and records being given to the newly elected office bearers. Once the objections of Sh. D.K. Gautam were decided in his favour, obviously the present suit could not have continued.

5. I was inclined to pass appropriate judgment in the present case in view of the aforesaid facts but counsel for Sh. Dhamma Priya Gautam and who in any case cannot represent the Maitrey Budha Vihar Prabandak Samiti and which can only be represented by its current office bearers, states that he has instructions from Sh. Dhamma Priya Gautam who is present in person not to pursue the present appeal and which be allowed to be dismissed as withdrawn.

6. In view of the above, instead of passing any judgment on merits, this second appeal is allowed to be dismissed as withdrawn.

VALMIKI J. MEHTA, J

SEPTEMBER 30, 2016

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