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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 475/2016 and IA 11646-11652/2016 and 11718/2016
MR RAJINDER PAL KHOSLA AND ANR Plaintiffs

Through: Deepak Khosla, plaintiff no.2 in person

versus

M/S THE DELHI GOLF CLUB LTD
AND ANR Defendants

Through

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

% **ORDER**
22.09.2016

By the plaint submitted a number of reliefs are claimed which have been set out in prayer clauses (i) to (xiii). It is noted that the first, second and third reliefs of declaration are the prime reliefs, the other reliefs being essentially consequential thereto. By the reliefs sought through prayer clause (i),(ii) and (iii), declaration is sought to the effect that the articles of association of the first defendant are *ultra vires* the Companies Act, 2013 and that the plaintiff is a member at par with any other member of the first defendant and is also entitled to a certificate attesting to his such membership.

In the course of hearing, question of *locus standi* of the second plaintiff arose and it was submitted by Mr. Deepak Khosla (second plaintiff-in-person) arguing for self and for the other plaintiff that the first plaintiff has transferred the membership he holds in the first

defendant company in his favour. During hearing, however, it came to notice and was pointed out to him that in paragraph 13 of the legal notice dated 09.09.2016, *inter alia*, on which basis the cause of action is being pleaded it had been mentioned that the first plaintiff wishes to transfer his share (his membership) in favour of his elder son i.e. Mr. Deepak Khosla (second plaintiff). This implies that there has been no transfer of the share in favour of the second plaintiff till date.

In the fact-situation at hand, it is questionable as to how the provisions of Section 91 read with Order 1 Rule 8 CPC can be invoked. This would call for a detailed hearing.

Be renotified for consideration in this light on 17.10.2016.

The office note indicates a number of objections. The Registry shall submit a detailed report in this regard on the next date.

At this stage, Mr. Deepak Khosla submits that he is under instructions from the first plaintiff and he also submits on his own behalf that the suit may be permitted to be withdrawn with liberty to file afresh after appropriate modifications before the appropriate forum.

In view of the above, the date of hearing fixed in the matter i.e. 17.10.2016 stands cancelled.

The suit and the accompanying applications are dismissed as withdrawn with liberty as prayed for.

R.K.GAUBA, J.

SEPTEMBER 22, 2016

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