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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 933/2016**

JOGINDER DHKA & ORS Appellants
Through: Ms. Drishty Madan and Mr. Amit
Madan, Advocates with appellants in person.

versus

RAJINDER DHKA Respondent
Through: None

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **30.11.2016**

CM APPL. 44483/2016 (for extension of time to file the court fee)

Subject to the appellants making good the deficiency in the court fee within one week, the application is allowed and disposed of.

CM APPL. 44481/2016 (exemption)

Subject to the appellants filing the certified/typed/legible copies of the documents annexed with the appeal within four weeks, the application is allowed and disposed of.

RFA 933/2016 and CM APPL. 44482/2016 (stay)

1. The appellants/defendants are aggrieved by the judgment and decree dated 31.08.2016 passed by the trial court in a suit for recovery of possession and permanent injunction instituted against them by their brother, the respondent/plaintiff in respect of premises No.C-129, J.J. Colony, Madipur, Delhi.

2. Under the impugned judgment and decree, the trial court has held that the suit premises was a self-acquired residential premises of the father of the parties, late Shri Balbir Singh, who had executed a will dated 25.11.2010, bequeathing the same in favour of the respondent/plaintiff. After the issues were framed, the parties were called upon to adduce evidence. In the course of the evidence, the respondent had produced both the attesting witnesses to the will (PW-2 and PW-3), who had deposed that they had seen the deceased father of the parties executing the will and had signed the same as witnesses after understanding its contents. Upholding the legality and validity of the said will, the trial court has decreed the suit in favour of the respondent/plaintiff.

3. In the course of arguments, the Court has expressed an opinion that there does not appear any illegality, infirmity or mis-appreciation of evidence, which deserves interference in appeal. The matter was passed over to enable learned counsel for the appellants to obtain instructions from her clients as to whether they wish to seek a reasonable time to vacate the suit premises.

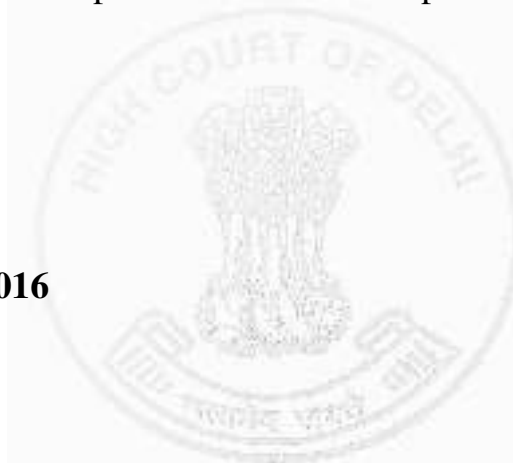
4. On the second call, counsel for the appellants states on instructions that the appellants do not wish to press the appeal. However, it is submitted that presently there is no other premises available where the appellants No.1 and 2 can shift their family members. It is further stated that the appellant No.1 has a minor daughter, who is suffering from a disability and needs frequent medical attention. She therefore, requests that a reasonable time of at least one year be granted to the appellants to make alternate arrangements

and vacate the suit premises.

5. While disposing of the present appeal alongwith the pending application, the Court is refraining from expressing an opinion on the timeline prayed for by the appellants for vacating the suit premises. Instead, a limited notice on this aspect is issued to the respondent, on the appellants filing the process fee, by ordinary process, speed post and *dasti* as well, returnable on 30.01.2017.

6. Till the next date of hearing, the appellants shall maintain status quo with regard to the title and possession of the suit premises.

NOVEMBER 30, 2016
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HIMA KOHLI, J