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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RSA 284/2015

MOHD ISMAEEL

Through: Appellant
Mr. Manish Kapoor, Adv.

versus

SAEEDA BEGUM & ORS Respondents
Through: Mr. Shakeel A. Saifi, Adv.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **15.07.2016**

1. After arguments, counsel for the appellant does not press this regular second appeal inasmuch as it is stated that rejection of the plaint under Order 7 Rule 11 CPC will not prevent filing of a fresh suit on the same cause of action under Order 7 Rule 13 CPC on proper averments constituting the cause of action. It is also stated that even if the suit is treated as dismissed by the impugned judgments, the dismissal is on account of technical reasons, and the same will not operate as *res judicata* in view of the observations of the Supreme Court in the case of *Sheodan Singh Vs. Daryao Kunwar (Smt.) (1966) 3 SCR 300; AIR 1966 SC 1332*.

2. In view of the above, the appeal is disposed of as not pressed with liberty to the appellant to pursue such other remedies as available in law.

VALMIKI J. MEHTA, J

JULY 15, 2016

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