

\$~15 (12.12.2016)

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

+ **FAO(OS) 356/2016 & CM 45841-43/2016**

**RAVI RAJ GUPTA & ANR.** ..... Appellants

Through Mr Amitabh Chaturvedi, Adv. with Mr  
Sumit Shukla, Adv.

versus

**SHIV RAJ GUPTA & ORS.** ..... Respondents

Through None.

**CORAM:**

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR. JUSTICE ASHUTOSH KUMAR**

**ORDER**

% **14.12.2016**

The learned counsel for the appellant does not press this appeal. He seeks a direction that the preliminary issues be taken up for hearing irrespective of the fact that the evidence shall be recorded by the Local Commissioner. We find that this is also tenor of the impugned order because it records that the preliminary issue would continue to be treated as preliminary issues but keeping them as such would not delay the trial of the suit. This clearly means that the preliminary issues would be taken up for hearing as preliminary issues and the trial could also continue.

We are informed that the next date of hearing is 13.02.2017 and it has been listed for arguments on the preliminary issues. We expect the learned single Judge to take up this matter for hearing on that date. The evidence to be recorded by the Local Commissioner shall continue as directed by the learned single Judge.

The appeal is dismissed as not pressed on the above terms.

**BADAR DURREZ AHMED, J**

**ASHUTOSH KUMAR, J**

**DECEMBER 14, 2016/ab**