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

+ RFA 422/2012

TEK RAM

..... Appellant

Through: Ms.Ruchira, Advocate.

versus

KIMTI LAL ARORA

..... Respondent

Through: Ms.Harsha, Advocate.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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23.10.2017

C.M.No. 20693/2017 (exemption)

Exemption allowed subject to all just exceptions.

The application is disposed of.

C.M. No. 20650/2017

1. The challenge in the appeal is the judgment and decree dated 08.08.2012 by which the court of Sh. Sanjeev Aggarwal, learned Additional District Judge-03 (Central), Tis Hazari Courts, Delhi, dismissed the suit of the appellant/plaintiff being barred by the principles of *res judicata* in view of the judgment rendered in Civil Suit No. 954/2006 between the same parties.
2. The appellant had impugned the judgment rendered in Civil Suit No. 954/2006 by way of RSA No. 152/2014, which was disposed of by a consent order of this court on 19.05.2017. The copy of the order dated 19.05.2017 disposing of the RSA No. 152/2014 has been

annexed with the present application. The appellant and respondent no. 2 were declared to be co-owners of the property no. A-3, Kirti Nagar, Delhi in equal shares and as such the civil suit No. 17/2017 for partition dismissed by the court of learned ADJ on 08.08.2012 by impugned judgment and decree shall stand revived.

3. In these circumstances, it is directed that the impugned judgment and decree dated 08.08.2012 passed by learned ADJ in Civil Suit No. 17/2011 are hereby set-aside and the trial court shall proceed with the Civil Suit no. 81/2006 (new no. 17/2011) in accordance with law.
4. The application as also the RFA are disposed of.

VINOD GOEL, J.

OCTOBER 23, 2017

"shailendra"