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

+ CM(M) No.677/2016

RAUNAK SINGH

..... Petitioner

Through: Mr. H.L. Narula, Adv.

Versus

SATISH CHAND SHARMA & ORS

..... Respondents

Through: Mr. Anil Sapra, Sr. Adv. with Mr. Rakesh Malhotra, Mr. Sanjeev Sharma, Mr. Siddharth Handa, Mr. Kartik Bhardwaj, Mr. Jaideep Singh, Mr. Sashank Katyal and Ms. Piyusha Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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16.08.2017

1. The matter has been taken up today as 14th August, 2017 was declared a holiday.
2. This order is in continuation of the earlier order dated 5th July, 2017.
3. The counsel for the petitioner has drawn attention to sub-para 4 of para 38 of *Surya Dev Rai Vs. Ram Chander Rai* (2003) 6 SCC 675 and to para 23 of *Atma Ram Vs. Shakuntala Rani* (2005) 7 SCC 211.
4. However neither of the aforesaid passages hold that even where the remedy of appeal provided under the Code of Civil Procedure, 1908 (CPC) is available, the petition under Article 227 of the Constitution of India would lie.
5. Per contra, the senior counsel for the respondent no.1 has drawn attention to para 26 of *Surya Dev Rai* supra laying down that supervisory jurisdiction may be refused to be exercised when an alternate efficacious

remedy by way of appeal or revision is available to the person aggrieved.

6. The counsel for the petitioner has also sought to refer to the last six lines of para 26 supra but which also are not found to be coming to the rescue of the petitioner.

7. Rather, from the petitioner filing CM No.23016/2017 for treating this petition under Article 227 of the Constitution of India as an appeal also, it is evident that according to the petitioner also the appropriate remedy is of an appeal.

8. The petition is thus dismissed as not maintainable with liberty to the petitioner to avail of appropriate remedies in law.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGUST 16, 2017

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