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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 524/2017 & CM No.17675/2017 (for stay)
BALBIR SINGH AND ORS Petitioners
Through: Mr. B.D. Sharma, Adv.

Versus

LAXMI NARAIN AND ANR Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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19.07.2017

1. This petition under Article 227 of the Constitution of India impugns the order (dated 24th April, 2017 of the Court of learned Additional District Judge (ADJ)-05, South West District, Dwarka Courts, New Delhi in Civil Suit No.79/2017 filed by the petitioners) of dismissal of an application under Order I Rule 10 of the CPC for impleadment of the legal heirs of defendant no.1 who was stated to have died prior to the institution of the suit.
2. The counsel for the petitioners on enquiries states that the learned ADJ has after 24th April, 2017 also dismissed the suit and whereagainst the petitioners have preferred an RFA which though has not been listed as yet. The counsel for the petitioners on further enquiry states that the same grounds as taken in this petition have been taken in the RFA as well.
3. I am of the opinion that the better forum for considering the challenge made would be RFA and not this petition under Article 227 of the Constitution of India.
4. This petition is disposed of with specific liberty to the petitioners to challenge the order dated 24th April, 2017 as impugned herein in the RFA and which is permissible in accordance with order XLIII Rule 1A of the CPC.

RAJIV SAHAI ENDLAW, J

JULY 19, 2017/‘gsr’..