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

+ **FAO 474/2016 & C.M. Appl. 35511/2016**

JOGINDER SOLANKI Appellant
Through: Ms. Sunita Maan and Mr. Vishal
Maan, Advs.
versus

INDERJEET SINGH SOLANKI & ORS Respondents
Through: Mr. Dilip Singh, Adv. for respondent
No.1 with respondent No.1 in person.
Mr. Naresh Kumar, Adv. for
respondents No.2, 3 and 4.
Mr. Naveen Kumar Raheja, Adv. for
respondent No.7.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
16.02.2017

1. The appellant has challenged the impugned order dated 20th August, 2016 whereby the learned Trial Court has dismissed the appellant's application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure on the ground that respondents No.6 and 7 have not been impleaded as respondents and the interim prayer can be sought only after impleadment of respondents No.6 and 7 and their written statement.
2. Learned counsels for both the parties submit that respondents No.6 and 7 have been impleaded as respondents and they have also filed the written statement and therefore, it would be appropriate to set aside the order and remand the matter back to the Trial Court for adjudication on the appellant's application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure.
3. The impugned order dated 20th August, 2016 is set aside and the

appellant's application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure is remanded back to the learned Trial Court to hear the parties afresh and pass a fresh order. The appeal is disposed of in the above terms.

4. Learned counsels for the parties that the matter is listed before the Trial Court on 09th March, 2017 when they will file brief note of submissions not exceeding three pages along with copies of the relevant documents/judgments on which they wish to rely with relevant portions duly highlighted for the convenience of the Trial Court. The Trial Court shall expedite the hearing and endeavour to decide the appellant's application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure within a period of 45 days.

5. The parties shall maintain status quo till 24th April, 2017 or the date of the fresh order on the appellant's application, whichever is earlier. Both the parties shall file an affidavit before the Trial Court within 10 days from today to place on record the present status with respect to the title, possession and construction of the suit property. The parties shall also file the photographs of the suit property as on today along with the status report.

6. The learned Trial Court record be returned forthwith.

7. It is clarified that this Court has not expressed any opinion in the merits of this case which shall be considered by the Trial Court. Pending application is disposed of.

8. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

FEBRUARY 16, 2017

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