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

+ CM(M) 582/2017

OMBIR SINGH & ANR

..... Petitioners

Through: Mr.Deepak Khosla, Advocate.

versus

JASPALI CHAUHAN & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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24.05.2017

CM No.20037/2017

1. Exemption allowed subject to all just exceptions.
2. Application is disposed of.

CM(M) 582/2017

1. The petitioners are impugning the order dated 20th April, 2017 whereby the respondent No.1/plaintiff has been allowed to lead evidence in rebuttal.
2. Mr.Deepak Khosla, Advocate for the petitioner submits that learned Probate Court has given a right to the respondents to lead evidence in rebuttal though they did not reserve the right to lead evidence in rebuttal. He further submits that the impugned order has been passed by the learned Probate Court relying on the decision reported as Wazirpur Small Industries Association (Regd.) vs. Union of India 2010(4) AD (Delhi 262 but the ration

of the case is contrary to the finding by the learned Probate Court. Even the case law cited by the petitioners have not been considered by the learned Probate Court.

3. In case the grievance of the petitioner is about non-consideration of the case law cited by them or the case law relied upon by the learned Probate Court to be contrary to the ratio laid down therein, the petitioners could have sought the review.

4. At this stage, learned counsel for the petitioners seeks leave to withdraw this petition with liberty seek review of the order dated 20th April, 2017.

5. Accordingly, the petition is dismissed as withdrawn.

6. Needless to state, if the review petition is filed by the petitioners, the same shall be heard and disposed of on merits by the learned Probate Court.

CM No.20036/2017

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 24, 2017

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