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

+ C.R.P. 178/2017

SHAKUNTALA SHARMA & ANR

..... Petitioners

Through: Mr. Manu Nayar, Ms. Meenakshi
Bhatia & Ms. Radhika Pahadia, Advs.

Versus

SAVITRI DEVI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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11.08.2017

CM No.28770/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

C.R.P. 178/2017 & CM No. 28768/2017 (for stay)

3. This Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (CPC) impugns the order [dated 22nd April, 2017 in Civil Suit No.59384/2012 of the Court of Senior Civil Judge (SCJ)-Rent Controller, North-West District, Rohini Courts, Delhi] of dismissal of an application filed, at the stage of the petitioners / defendants evidence, by the petitioners / defendants under Order VII Rule 11 of the CPC for rejection of the plaint in a suit for perpetual and permanent injunction and for *mesne profits*.
4. After some hearing, the counsel for the petitioners / defendants states that he does not want to challenge the order impugned in this petition and

withdraws this petition confining the relief in this petition to the observations made by the learned SCJ in the impugned order dated 22nd April, 2017 not affecting adjudication of the suit.

5. The counsel for the petitioners / defendants states that though in the issues framed in the suit on 20th November, 2013, the issues no.2 and 4 are as under:

“2. Whether suit has not been properly valued for the purpose of court fee? OPD.

4. Whether suit is not maintainable in the present form as plaintiff is seeking relief of possession in guise of relief of injunction? OPD.”

but the learned SCJ in the impugned order has returned findings thereon. Clarification is sought that the said observations / findings will not come in the way of final adjudication of the suit including on the issues aforesaid.

6. The observations in the order under Order VII Rule 11 of the CPC cannot in law come in the way of final adjudication of the suit on the issues already framed.

7. For clarifying the said position, need to issue notice to the respondent is not felt.

8. It is clarified that any observations in the impugned order or dismissal of this petition will not come in the way of adjudication of the issues aforesaid on merits.

9. The petition is dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 11, 2017/‘gsr’..