

\$~62.

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

+ CM(M) No.746/2017 & CM No.25521/2017 (for stay).

POOJA ARYA

..... Petitioner

Through: Mr. Aditya Madan and Mr. Gautam
Gupta, Advs.

versus

PREM PRAKASH ARYA & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

21.07.2017

CM No.25522/2017 (for exemption).

1. Allowed, subject to just exceptions.
2. The CM stands disposed of.

CM(M) No.746/2017 & CM No.25521/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 1st July, 2017 in CS(OS) No.52561/2016 of the Court of Civil Judge, Saket, New Delhi) of dismissal of an application of the petitioner / defendant under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC).

4. The petitioner / defendant has invoked the wrong remedy; against an order of dismissal of an application under Order VII Rule 11 of the CPC, the remedy of Revision under Section 115 of the CPC is available.

5. Be that as it may, since the counsel for the petitioner / defendant, after full hearing, unconditionally withdraws the petition, need to relegate the petitioner / defendant to the correct remedy is not felt.

6. It is however made clear that it will not be now open to the petitioner / defendant to prefer a petition under Section 115 of the CPC also against the impugned order.

7. Dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 21, 2017

‘pp’..