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

+ RFA 526/2015

KALAWATI & ORS

..... Appellants

Through : Mr. Aakar Bhardwaj, Advocate

versus

INTIZAR ALI

..... Respondent

Through : None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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27.03.2017

CM No.11441/2017 (by the appellant u/Sec.151 CPC)

1. The present application has been filed by the appellants praying *inter alia* for permission to withdraw the accompanying appeal.
2. Counsel for the appellants states on instructions that the appellants do not wish to pursue the appeal any further.
3. The records reveal that the respondent was duly served with the notice in the pending applications on 19.10.2015. However, the said fact was not brought to the notice of the Court on 20.1.2016 on which date it was recorded that notice of the appeal had not been served on the respondent. On the said date, directions were also issued to the appellants to deposit the decretal amount in terms of an earlier order dated 29.9.2015.
4. The appellants have not deposited the entire decretal amount, but only deposited the principal amount of Rs.5.00 lacs in the Registry. Counsel for the appellants states that the appellants have forwarded a draft for a sum of

Rs.2,50,350/-, which he shall be depositing in the Registry within two days. He states that he has no objection to the entire decretal amount being released in favour of the respondent alongwith interest, if any, accrued on the principal amount deposited earlier. He also requests that the trial court record requisitioned and tagged with the present file be released forthwith so that he can file an application for release of the original documents filed in the suit.

5. In view of the fact that none has appeared on behalf of the respondent despite service and the appellants have already deposited the principal amount and propose to deposit the remaining decretal amount as well and further, the appellants has given their consent for release of the decretal amount with interest, if any, accrued thereon in favour of the respondent, there appears no impediment in allowing the present application. Ordered accordingly. The appeal is dismissed as not pressed.

6. Trial court record is directed to be released forthwith. The appellants shall be at liberty to approach the trial court for seeking release of the original documents filed by them by filing an appropriate application in that regard.

7. As the Court is informed that so far the appellants have not received a notice of any execution petition filed by the respondent for seeking execution of the impugned judgment and decree dated 30.5.2015, it is deemed appropriate to direct the Registry to intimate the respondent about the deposit of the decretal amount with interest in this Court for him to take steps to seek release thereof by filing an appropriate application in that regard.

8. Counsel for the appellants shall also give a written intimation of the

order passed above to the respondent directly and the letter along with proof of receipt of the said intimation shall be placed on record within two weeks from today.

9. The appeal is disposed of. File be consigned to the record room.

HIMA KOHLI, J

MARCH 27, 2017

sk/ap

