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

+ RSA 384/2016

DR SANTOSH SAHI

... Appellant

Through: Mr.Arun Batta, Advocate

versus

ZABEENA BEGUM AND ORS

... Respondent

Through: None

AND

+ RSA 385/2016

DR SANTOSH SAHI

... Appellant

Through: Mr.Arun Batta, Advocate

versus

MOHD MUJAHID AND ANR

... Respondent

Through: None

AND

+ RSA 386/2016

DR SANTOSH SAHI

... Appellant

Through: Mr.Arun Batta, Advocate

versus

SHAKEELA BEGUM AND ORS

... Respondent

Through: None

AND

+ RSA 387/2016

DR SANTOSH SAHI

... Appellant

Through: Mr.Arun Batta, Advocate

versus

ASHIYA BEGUM AND ANR

... Respondent

Through: None

RSA Nos.384/2016, 385/2016, 386/2016 & 387/2016

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CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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13.02.2017

RSA Nos.384/2016, 385/2016, 386/2016 & 387/2016

1. The main grievance of the appellant is that despite there being a report from Tehsildar that the suit property falls under Khasra No.361, as pleaded by her and not in Khasra No.360, as claimed by the respondent/defendant and submissions that the judgment passed by Supreme Court in Suraj Lamp and Industries Private Limited Vs. State of Haryana and Anr. (2012) 1 SCC 656 is applicable prospectively, the appeal has been dismissed.
2. On being questioned as to whether this ground was taken by the appellant before the First Appellate Court, learned counsel for the appellant has placed on record copy of the first appeal wherein under ground (E) this ground has been taken but not dealt with by the First Appellate Court in the light of the decision of the Supreme Court in Maya Devi Vs. Lalta Prasad (2015) 5 SCC 588, wherein it was held that the operation of the judgment in Suraj Lamp case (supra) was pointedly and poignantly prospective. Learned counsel for the appellant has drawn attention of this Court to the observation made in paragraph 11 to 14 by the First Appellate Court in RCA No.20111/2016.
3. On being questioned whether any review was filed before the First Appellate Court on this issue, learned counsel for the appellant submits that he did not file the review petition as he had the apprehension that in the meantime the appeal may become time barred.
4. Learned counsel for the appellant submits that appellant is willing to file the review petition before the first Appellate Court but reserve his right

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to challenge the decision in appeal if the review petition is dismissed by the First Appellate Court.

5. Since the appellant had taken a specific ground challenging the judgment of the learned Trial Court, that his suit could not have been dismissed relying upon the Suraj Lamp case (supra) the operation of the said judgment being prospective as held in Maya Devi's case (supra), this contention has not been dealt with by the learned First Appellate Court.

6. These appeals are dismissed as withdrawn giving liberty to the appellant to approach the First Appellate Court by filing the review. The First Appellate Court shall deal with the review petition on merits and shall not dismiss it on technical grounds like limitation. The appellant is given liberty to challenge the decision in appeal after his review petition is disposed of by the First Appellate Court.

7. Copy of the order be given dasti.


PRATIBHA RANI, J.

FEBRUARY 13, 2017

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