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

+ CM(M) No.1042/2017

PARMINDER SINGH

..... Petitioner

Through: Mr. Harpreet Singh Popli and Mr.
Deepak Diwan, Advs.

versus

NARINDER PAL SINGH &ORS

..... Respondents

Through: Mr. Sanjay Singh, Adv. for DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **20.09.2017**

CM No.34354/2017 (for exemption).

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

CM(M) No.1042/2017.

3. This petition under Article 227 of the Constitution of India impugns the orders (dated 21st July, 2017 and 26th August, 2017 in CS No.463/17 of the Court of the Additional District Judge (South-West), Dwarka Courts, Delhi) *inter alia* dismissing the application of the petitioner / plaintiff under Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC) and refusing to re-call the said order.
4. Though the petition under Article 227 of the Constitution of India is not maintainable against the dismissal of an application under Order XII Rule 6 of the CPC and the remedy of the petitioner / plaintiff is to prefer a Revision Petition under Section 115 of the CPC but *de hors* the said question I have enquired from the counsel for the petitioner / plaintiff that

the admission, on the basis whereof the petitioner / plaintiff is seeking the decree, being only of respondent / defendant no.4 Delhi Development Authority (DDA), how can the petitioner / plaintiff be entitled to a decree on admission against the other defendants, impleaded as respondents / defendants no.1 to 3 herein, who have not admitted the case of the petitioner / plaintiff.

5. The petitioner / plaintiff states that the respondents / defendants no.1 to 3 are pro forma defendants in the suit and he will withdraw the suit insofar as against the respondents / defendants no.1 to 3.

6. The petitioner / plaintiff is at liberty to do so and after withdrawing the suit against the respondents / defendants no.1 to 3 may apply again to the Suit Court for decree on admissions against the respondent / defendant no.4 DDA.

7. With the aforesaid observations, the petition is dismissed.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 20, 2017

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