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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA(OS) 50/2017, C.M. No. 46495/2017 & C.M. No. 46496/2017
DEEPAK AGGARWAL Appellant

Through: Mr. Rajiv Tyagi, Advocate along with
Mr. Divakar Kumar, Advocate.

versus

RAJ GOYAL & ORS Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **20.12.2017**

C.M. No. 46497/2017 (exemption)

Exemption granted subject to all just exceptions.

The application stands disposed off accordingly.

RFA(OS) 50/2017

The present regular first appeal assails a judgment and order dated 03.11.2017 passed by a learned Single Judge of this Court in Review Petition No. 465/2017 seeking review, modification and clarification of the judgment and order dated 28.10.2015 in CS (OS) No. 2711/2015 titled as "*Sh. Deepak Aggarwal vs. Sh. Raj Goyal and Ors.*" (hereinafter referred to as "the subject suit"), whereby a suit essentially for partition instituted on behalf of the appellant came to be dismissed whilst reserving liberty to him to file a fresh suit on appropriate cause of action.

Mr. Tyagi, learned counsel appearing on behalf of the appellant states

that subsequent upon the dismissal of the subject suit, a fresh suit seeking a relief of declaration, partition, permanent and mandatory injunction and for consequential relief etc. has infact been instituted by the appellant.

Mr. Tyagi, learned counsel therefore, on instructions, seeks leave to withdraw this appeal with liberty to agitate all the legal submissions that may be available to the appellant in the subsequent suit.

The appeal along with pending applications is therefore dismissed as withdrawn, whilst reserving liberty to the appellant to agitate all legal submissions as may be available to him in other proceedings, in accordance with law.

Needless to state that, we observe that the subject suit came to be dismissed at the threshold without the Hon'ble Court having struck issues and permitted the plaintiff to lead evidence.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

DECEMBER 20, 2017

ss