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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 339/2018 & CM Nos.11503-11504/2018**

MINAKSHI NATH & ORS Petitioners
Through: Mr. A.S. Chandhiok, Senior Advocate
with Ms. Amita Sehgal, Ms. Sweta &
Ms. Tejasvi Chaudhry, Advocates.
versus

KAILASH NATH Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **23.03.2018**

The application for rejection of the plaint under Order VII Rule 11 CPC read with Order XII Rule 6 and Section 11 CPC has been pending since 2011 on the file of suit (CS No.57768/16) instituted by the respondent. As shown by the learned counsel from the previous proceedings, particularly the proceedings recorded on 24.11.2017, the learned trial judge had partly heard the arguments on the said application given the fact that the plaintiff is 90 years old but deemed it proper to defer the consideration of the application after recording his testimony, he having appeared as witness (PW-1). It is also shown from proceedings recorded on 16.01.2018 that the testimony of PW-1 has since been concluded, he having been cross-examined and discharged. While the case is listed for evidence on 26.3.2018 and 27.03.2018 before the trial court, the proceedings recorded on

16.01.2018 also indicate that the trial judge intends to hear the arguments on the said pending application presumably with the objective of adjudicating upon it. Against this backdrop, this Court has no reasons to doubt that given proper assistance and persuasion, with reference to the previous proceedings, by the counsel for the petitioner, why the trial judge would not bear in mind the necessity to give precedence to the hearing and adjudicate on the afore-said pending application.

At this stage, learned senior counsel for the petitioners submits, on instructions, that he may be allowed to withdraw this petition and the applications filed therewith and instead be given liberty to approach the trial court with an appropriate prayer.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed for granted.

Dasti under the signatures of Court Master.

R.K.GAUBA, J

MARCH 23, 2018

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