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

+ CM(M) 467/2018 and CM APPL.15923/2018

SURESH CHAND GAUR (THR LRS) Petitioner

Through: Mr. Dayan Krishnan, Senior Advocate with
Mr. Waize Ali Noor, Mr. Kirtiman Singh &
Mr. Saeed Qadri, Advocates

versus

KALAWATI (THR LRS)

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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23.04.2018

The petitioners are the plaintiffs of the civil suit (Suit No.75/2017) and by this petition under Article 227 of the Constitution of India seek to bring a challenge to the correctness, legality and propriety of the order dated 06.11.2017, whereby their application for amendment of the plaint invoking Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC) was dismissed. It is, however, noted that the said civil suit itself was dismissed by judgment later rendered on 18.12.2017. It is the submission of the petitioners that if the amendment application had been allowed, the suit could not have been dismissed in the manner done by the later judgment dated 18.12.2017.

In the facts and circumstances, the proper course for the petitioners would be to file a regular appeal under Section 96 CPC and take up also the

grounds vis-a-vis the order dated 06.11.2017 in the course of such proceedings.

At this stage, the learned senior counsel submitted, on instructions, that he may be allowed to withdraw the present petition and the application filed therewith and instead be given liberty to raise the contentions concerning the impugned order dated 06.11.2017 in the appeal against the judgment dated 18.12.2017.

The petition and the application filed therewith are dismissed as withdrawn with liberty as prayed for granted.

R.K.GAUBA, J.

APRIL 23, 2018

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