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

+ CM(M) 413/2018 and CM Nos. 13805-13806/2018

MINAKSHI NATH & ORS

..... Petitioners

Through: Mr. A.S. Chandhioke, Sr. Adv. with
Ms. Amita Sehgal, Mr. J. Chaudhary
and Ms. Shweta Khulbe, Advs.

versus

KARAN NATH & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **10.04.2018**

The grievance of the petitioners (defendants in the suit) presently registered as CS no.754/2017 primarily is that their application under Order VII Rule 11 read with Order XII Rule 6 CPC has not been taken up for consideration or adjudication by the Additional District Judge, observing by the impugned order dated 12.03.2018 that he would do so “immediately upon the closure of P.E.”. It is pointed out that by a previous order dated 29.01.2018, the matter was listed for arguments on the said application, directions having been given for reply to be filed in time bound manner. It is further pointed out that the suit was instituted in 2006 initially on the original side of this court, it having been transferred upon change of

pecuniary jurisdiction to the District Courts. Undoubtedly, the case has been at the stage of plaintiff's evidence for long, some amendment having come in during the interregnum. Having regard to the nature of the application whereby rejection of the plaint is sought by the defendants, however, it seems improper *prima facie* that the trial judge should defer the consideration of the application till the plaintiff evidence is concluded.

At this stage, the learned senior counsel for the petitioners submitted that he may be permitted to withdraw the present petition and the application filed therewith and approach the trial judge with an application for review, pointing out the above observations of this court.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed granted.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J

APRIL 10, 2018/uj

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