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

+ CM(M) 338/2016 and CM APPL.13284/2016 (stay)

KAVITA GUPTA

..... Petitioner

Through: Mr. Anuroop P.S., Advocate with
Mr. Deepak Choudhary, Adv.

versus

LAXMAN DAS NARANG

..... Respondent

Through: Mr. Prabhas, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **07.03.2018**

The petition at hand seeks to assail the order dated 03.02.2016 of the civil judge, South-East District on the file of the civil suit (Suit No.12/2014) which was instituted by the petitioner against the respondent herein on 04.01.2014 seeking reliefs in the nature of a decree for recovery of possession, arrears, *mesne* profits, damages and interest *pendente lite* and future. It appears that by order dated 15.05.2014 the civil judge had framed a preliminary issue, assumably on objection taken by the respondent/defendant, on the question of pecuniary jurisdiction. The defendant had also taken objection as to the valuation of the suit for purposes of pecuniary jurisdiction.

The civil judge, by order dated 03.02.2016, *inter alia*, concluded, on the basis of pleadings of another case that the petitioner/plaintiff was

estopped from stating that the market value of the subject property was less than Rs.25 lacs.

It appears the petitioner/plaintiff has described the respondent/defendant in the suit as a licensee inducted by her predecessor-in-interest. It further appears that in the context of prayer for damages the plaintiff pleads that the suit premises, if let out, would fetch rental of Rs.30,000/- per month. In para 12 of the plaint the value of the suit “*for purposes of jurisdiction and recovery of possession*” is stated to be Rs.1,75,000/- and for purposes of “*damages and mesne profits*” at Rs.25,000/-.

After some hearing, the learned counsel for the petitioner fairly conceded that the pleadings in the plaint, as presented before the civil judge, are deficient in that there is no narration of facts relating to the induction of the respondent/defendant in the premises in question nor any elaboration as to how the valuation of the suit for purposes of the aforementioned reliefs has been arrived at. He, thus, submitted that the petitioner/plaintiff would like to withdraw the suit and seek the liberty to institute fresh properly structured suit on the same cause of action and, for such purposes, she intends to move an appropriate application before the civil judge. With this intendment, the petitioner seeks permission to withdraw the present petition.

The petition and the applications filed therewith are dismissed as withdrawn. The petitioner has the liberty to move an appropriate application for leave to withdraw the suit to be submitted before the civil judge and also to seek at the same time liberty to institute fresh properly structured suit on

same cause of action. Needless to add, the civil judge will pass necessary order on such application being moved.

Dasti under the signatures of Court Master.

MARCH 07, 2018
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R.K.GAUBA, J.