

\$~SB-1

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

+ RFA (OS) 47/2016

RADHA KRISHAN VERMA & ORS. Appellants

Through Mr. Kapil Verma, appellant No. 2 in
person with his wife.

versus

RAKESH KUMAR VERMA & ORS. Respondents

Through None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE V. KAMESWAR RAO

ORDER

% **02.11.2018**

CM Appl. No. 8549/2018 (under Section 107 and 151 CPC filed by appellant No. 2 for recall of order dated 23rd February, 2018 and restoration the appeal)

The present application has been instituted on behalf of Mr. Kapil Verma, the appellant No. 2, seeking recall of the order dated 23rd February, 2018, passed by this Court.

The application further seeks restoration of RFA (OS) No.47/2016 and its adjudication on merits.

In order to appreciate the submissions made on behalf of Mr. Kapil Verma, who appears in person, it would be profitable to extract the order of which recall is sought, *in extenso*:

“Learned counsel appearing on behalf of the appellants seeks leave to withdraw this appeal with liberty to make proposals in relation to the partition of the existing property, in accordance with law.

Leave and liberty granted.

The appeal is dismissed as withdrawn and disposed of accordingly. The pending application also stands disposed of.”

As is evident from a plain reading of the above order, after making detailed submissions, learned counsel appearing on behalf of the appellants, which includes the applicant, sought leave to withdraw the appeal, with liberty to make proposals in relation to the partition of the existing property, in accordance with law, which leave and liberty was granted by this Court.

It would be relevant to observe that, the present application is predicated on the solitary allegation that, Mr. Sunil Ahuja, learned counsel for the appellants, (incorrectly mentioned as Mr. Arun Ahuja, Advocate) in the appeal, who appeared before this Court on 23rd February, 2018 and withdrew the said appeal, did not have any express instructions to withdraw the said appeal.

The submission made on behalf of Mr. Kapil Verma, is evidently an afterthought and cannot be countenanced, particularly in view of the circumstance that, it is an admitted position that, he was personally present before this Court, on the day when the statement seeking leave to withdraw the appeal, was made on his behalf by Mr. Sunil Ahuja, Advocate.

In view of the foregoing, the present application is devoid of any merit and is accordingly dismissed.

SIDDHARTH MRIDUL, J

V. KAMESWAR RAO, J

NOVEMBER 02, 2018/RS

RFA (OS) 47/2016

page 2 of 2