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

+ CM(M) 592/2018

RAJIV BEHL & ANR

..... Petitioners

Through: Mr. Sarfaraz Ahmad, Adv.

versus

S K BEHL

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **18.05.2018**

CM APPL. 20832-20833/2018 (exemption)

Allowed subject to all just exceptions.

CM(M) 592/2018 and CM No. 20831/2018 (stay)

The petitioners are defendants in the civil suit (CS No. 57796/2016) instituted by the respondent seeking decree of recovery of possession, injunction and *mesne* profits/damages instituted on 11.08.2015 initially on the original side of this Court but transferred on account of change of pecuniary jurisdiction to the District Court where it is pending presently in the Court of Ms. Kiran Gupta, Additional District Judge (North) at Rohini Court Complex, Delhi. It appears issues have been framed by order dated 28.03.2018. The petitioners (defendants) moved an application under Order XIV Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) seeking amendment of the first issue and for framing of an additional issue.

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The application dated 26.04.2018 has been disposed of by the Additional District Judge by passing an order which statedly reads as under:

“26.04.2018

Pr: Applicant with counsel.

Perused the application. Application is dismissed with cost of Rs.5,000/- to be deposited in DLSA(North). Be placed with file on the date fixed.”

It is the above order which is sought to be challenged by the petition at hand. In a case of this nature, notice need not even be issued to the opposite party, the order being non-speaking, cryptic and totally bereft of any reason; so much so it does not even mention the prayer made in the application.

The petition is, thus, allowed. The Additional District Judge is directed to pass a reasoned order on the application of the petitioners after hearing the parties.

The petition and the applications filed therewith are disposed of.

It is stated that the matter is before the Local Commissioner for recording of the evidence on 21st May, 2018. Such proceedings shall continue but shall be subject to the decision to be taken on the aforementioned application as directed above.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

MAY 18, 2018/uj

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