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

+ RFA 844/2018 and C.M. Nos.42322/2018(stay), 42323/2018(for
condonation of delay) & 42324-25/2018(exemption)

NEKI (DECEASED) THR LRS

..... Appellants

Through: Mr. K.C. Mittal, Advocate with Ms.
Ruchika Mittal, Advocate and Mr.
Yugansh Mittal, Advocate (M.
No.9811283331) with appellant no.3
in person.

Versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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10.10.2018

1. This Regular First Appeal under Section 96 of Code of Civil Procedure, 1908(CPC) is filed by the plaintiffs in the suit impugning the judgment of the Trial Court dated 20.3.2018 by which trial court has dismissed the suit for permanent and mandatory injunction filed by the appellants/plaintiffs. The appellants/plaintiffs are the legal heirs of the original plaintiff Sh. Neki who died *pendente lite*, and therefore, the present

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appellants were substituted as his legal heirs. By the suit, the plaintiffs sought the relief of easementary rights through the passage of land which is owned by the respondent/defendant/Delhi Development Authority (DDA).

2. The case of the appellants/plaintiffs as per the plaint is that they are the owners of lands situated in khasra nos.2, 3, 4, 5, 6/1, 7, 23/25 and 31/1 situated in the revenue estate of the village Singhola, Delhi. It was claimed that they can enter their land only through the land comprising in khasra nos.30/5 and 31/1 and which land was admittedly owned by the respondent/defendant/DDA as it is the land which was acquired under the Land Acquisition Act, 1894. Pleading that the appellants/plaintiffs have no other access to reach their lands except through the land of the respondent/defendant/DDA situated in khasra nos.30/5 and 31/1, the subject suit was filed.

3. I may note that though in the suit originally a prayer was made for the respondent/defendant to sell the land to the appellants/plaintiffs, however, subsequently that prayer was given up.

4. At this stage, counsel for the appellants has taken instructions from Mr. Ajit Singh, the appellant no.3 who is present in person, that appeal

be disposed of as not pressed.

5. Ordered accordingly.

VALMIKI J. MEHTA, J

OCTOBER 10, 2018

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