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

+ CM(M) 860/2016 and CM 32016/2016

SHAKUNTALA GUPTA & ANR Petitioners

Through: Mr. Irfan Ahmed, Advocate

versus

USHA SHARMA Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **15.01.2018**

After some hearing, the counsel for the petitioners submitted that he may be allowed to withdraw the present petition and instead given liberty to raise the contentions urged in the application under Order VII Rule 11 CPC which was dismissed by the trial judge by the impugned order, as preliminary issues. It is noted that the application for rejection of the plaint was filed even before the written statement was submitted. The contentions which have been urged, particularly the plea of the suit being not maintainable on the principles of *res judicata* give rise to questions of law which may be considered to be treated as preliminary issues.

In these circumstances, the prayer is granted. The petition and the application filed therewith are dismissed as withdrawn with liberty as prayed granted.

Interim order stands vacated.

R.K.GAUBA, J

JANUARY 15, 2018

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