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

+ **FAO(OS) 130/2018 & CM. No. 34342/2018**

**SHOBHA AGGARWAL & ORS** ..... Appellants

Through: Mr. P.K. Agrawal,  
Ms. Mercy Hussain and  
Ms. Tannya Sharma, Advs.

versus

**KRISHAN KUMAR & ANR** ..... Respondents

Through: Mr. Ravi Gupta, Sr. Adv. with  
Mr. P.K. Rawal, Mr. Tarun Aggarwal  
and Mr. L. Jain, Advs.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

% **07.09.2018**

Having heard the learned counsel for the parties, we are of the considered view that the order impugned dated August 08, 2018 passed by the learned Single Judge in I.A. under Order XXXIX Rule 4 CPC vacating the order of *status quo* granted *ex parte* is primarily on the ground that the appellant herein has suppressed a relinquishment deed and also by taking note of Commissioner's report.

From the material that has come on record, the appellant has tried to indicate before us that the relinquishment deed was not executed at all and it is not a document which could be relied upon and he refers to certain power

of attorney and other facts in support thereof. Be that as it may, for the present we are not going into the various constructive aspects of the matter for the simple reason that the stay granted in favour of the appellant was vacated without granting him an opportunity to submit his counter affidavit and or go through the Commissioner's report which was relied upon by the learned Single Judge.

In view of the above, we allow this appeal quashing the order passed by the learned Single Judge and request reconsideration of the application under Order XXXIX Rule 4 CPC afresh in accordance with law, after giving an opportunity to the appellant to file his counter affidavit or reply to the application.

*Status quo* order to continue till the next date of hearing.

List the matter before the learned Single Judge on September 17, 2018.

**CM No. 34342/2018 (for stay)**

In view of the order passed in the appeal, the application has become infructuous.

**CHIEF JUSTICE**

**V. KAMESWAR RAO, J**

**SEPTEMBER 07, 2018/aky**