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

+ RFA 933/2017

AVDHESH KUMAR SHARMA

..... Appellant

Through: Mr. P.K.Pandey, Advocate.

versus

SADHANA & ANR

..... Respondents

Through: Ms. Latika Chaudhary, Advocate for
R-1 and R-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **20.03.2018**

1. In view of the judgment of the Supreme Court in the case of *Prem Singh and Ors. vs. Birbal and Ors(2006)5 SCC 353* since there is no need of the appellant/plaintiff to challenge the documents which are void and to seek their declaration as void, therefore, Articles 58 and 59 of the Limitation Act will not apply for the suit to be dismissed as time barred.

2. In view of the aforesaid position, learned counsel for the respondents very fairly agrees that the impugned order dated 6.4.2017 rejecting the plaint as time barred be set aside but it is argued that all issues of merits be left open for being decided at the stage of final arguments in the suit.

3. Accordingly, while this appeal is allowed and disposed of by setting aside the impugned order dated 6.4.2017, it is observed that nothing contained in this order is a reflection on merits of the cases of the respective parties and such merits will be decided at the stage of final arguments in the suit after trial.

4. Parties to appear before the District and Sessions Judge, South West, Dwarka Courts, New Delhi on 27th April, 2018 and the District and Sessions Judge will now mark the suit for disposal to a competent court in accordance with law.

VALMIKI J. MEHTA, J

MARCH 20, 2018

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