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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 955/2016**

HARI SINGH & ORS.

..... Appellants

Through: Mr. Atul Kumar, Mr. Abhimanyu
Sharma and Mr. G. C. Rattan,
Advocates with Appellant in person.

versus

NAVEEN BHARDWAJ & ANR.

..... Respondents

Through: Mr. Anand Yadav, Advocate for R-1
(M-9810126454) with Respondent
No.1 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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10.05.2018

Appellant No.1(i) and Respondent No.1 are present in person. Present appeal arises out of the judgment/decreed dated 2nd August, 2016 by which the suit filed by the Appellants/Plaintiffs (*hereinafter 'Plaintiffs'*) was dismissed.

Learned Trial Court has dismissed the suit on the ground that no witness on behalf of the Plaintiffs was present and no arguments were also addressed by learned counsel for Plaintiffs. This Court had heard arguments on the last date of hearing and today. Parties have agreed that an opportunity may be granted to the parties to lead their evidence in the following terms.

- 1) The Plaintiff has already filed affidavit of two witnesses namely Mr. Hari Singh and Mr. Vijender, PW-1 and PW-2 respectively. Mr. Hari Singh has since expired. Affidavit of Mr. Vijender and his additional evidence shall be taken on

record.

- 2) Cross examination of Mr. Vijender shall be recorded. After the cross-examination of Mr. Vijender is concluded, the Plaintiffs shall be permitted to summon any official witness, if needed. No further witness except official witness/s would be permitted.
- 3) Thereafter, the evidence of the Respondents/Defendants shall be recorded.
- 4) The evidence of the parties shall be recorded by a Local Commissioner. The expenses of the Local Commissioner shall be shared equally by the parties.
- 5) Both parties shall ensure that the evidence is recorded without any delay. The recordal of oral evidence shall be concluded on or before 30th September, 2018. Thereafter, the matter will be listed before the Trial Court for final arguments.

List the suit for directions before the Trial Court, for appointment of a Local Commissioner and for fixing the dates of recordal of cross-examination.

The impugned judgment dated 2nd August, 2016 is set aside in the above terms. No observation in the impugned order or judgment shall be binding on the Trial Court finally deciding the suit.

List before the Trial Court on 28th May, 2018. The trial court record be sent back.

Appeal is allowed in the above terms.

PRATHIBA M. SINGH, J.

MAY 10, 2018/dk