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

+ LPA 21/2017

JANAK KUMARI SOOD

..... Appellant

Through Mr.V.K.Garg, Sr. Adv. with Mr.
Avneesh Garg and Ms.Noopur
Dubey, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through Mr.Arun Birbal, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **11.05.2018**

On the previous date of hearing as well as today learned counsel for the DDA had produced the file which discloses that a letter by the appellant dated 06.4.2000 expressing her wish not to accept the offer for Category-II allotment in Rohini or Shalimar Bagh but instead to prefer an allotment in Category-III in Mukherji Nagar is on the record. This in the opinion of the Court leads to the disputed question of facts since learned senior counsel submitted on instructions that the said letter was not written by the appellant. In the given circumstances having regard to the overall facts, the Court had indicated during the proceedings that in case the appellant wished to withdraw the present appeal, she had the option either preferring a suit or seeking a refund given the fact that the offer of refund was

never really made to her but rather appeared to be on the record of the DDA.

Today learned counsel submitted on instructions that the appeal may be allowed to be withdrawn with liberty to pursue civil proceedings. He, however, submitted that the impugned order of the learned Single Judge contained observations with respect to the cause of action having accrued on 06.4.2000. It is submitted that the letter shown to this Court was not ever within the knowledge of the appellant and that the said document is disputed.

In these circumstances, in case the appellant approaches the Civil Court with a suit, the observations of the cause of action either in 2000 or immediately thereafter, shall not be treated as conclusive or prevent her in any manner pleading to the contrary and seeking to establish it.

Learned counsel in the light of this clarification seeks liberty to withdraw the appeal and seek appropriate remedies. Liberty granted; in the event the appellant files a civil suit or any like proceedings, the issue of limitation is kept open to be considered on merits, irrespective of the observations of the learned Single Judge.

The appeal is dismissed as withdrawn.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 11, 2018/ndn