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

+ **RFA 861/2018 and C.M. Appl. Nos. 43499-500/2018**

RAJINDER KAUR

..... Appellant

Through: Ms. Vandana Sehgal and Mr. Rohan Thawani, Advocates (Mobile No. 9810095901).

versus

PARAMJIT KAUR & ORS

..... Respondents

Through: Mr. Randhir Jain and Mr. Dhananjai Jain, Advocates for R-1 (Mobile No. 9560562050).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **16.10.2018**

CAVEAT No. 960/2018

1. Since counsel for the caveators has entered appearance, the caveat stands discharged.

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2. This appeal is disposed of with the observations that though the trial court by the impugned judgment dated 23.8.2018 has dismissed the suit, really the suit will not be dismissed but the plaint will be rejected for lacking cause of action, and which was also the course which was adopted by the Division Bench of this Court in the case of *Sagar Gambhir Vs. Sukhdev Singh Gambhir*, (2017) 241 DLT 98. Reference in this regard can be made

to paragraph 6 of the judgment in the case of ***Sagar Gambhir (supra)***. Trial court has dismissed the suit by observing that the plaint does not contain adequate particulars of a cause of action as to how HUF came into existence, and once that is so that there is not pleaded a sufficient cause of action, the plaint will have to be rejected and not that the suit will have to be dismissed.

3. In view of the aforesaid observations, while the impugned judgment is sustained, however, the impugned judgment will be taken as rejecting the plaint under Order 7 Rule 11 CPC and not dismissal of the suit.

4. The appeal is accordingly disposed of.

VALMIKI J. MEHTA, J

OCTOBER 16, 2018

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