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

+ RFA 238/2018

SENIOR BUILDERS LTD

..... Appellant

Through: Mr. Arun Srivastava, Advocate with
Ms. Anupama, Advocate.

versus

RAJESH KUMAR DKANODIA

..... Respondent

Through: Mr. Ashish Mohan, Advocate with
Ms. Jaya Goyal, Advocate and Ms.
Manpreet Kaur, Advocate with
respondent in person (M.
No.9873288908).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **23.10.2018**

1. This appeal is disposed of with the consent order by setting aside the impugned judgment dated 9.8.2017, however, all issues of facts and law including the issue of limitation and territorial jurisdiction, will be decided at the stage of final arguments after parties have led evidence.

2. As agreed both the parties will not take more than five opportunities each to complete their evidence. It is also agreed that evidence in this case will be recorded by the Local Commissioner with costs to be

shared equally between the parties. Mr. Sameer Dewan, Advocate M. No.9810134864, who is present in Court, is appointed as a Local Commissioner to record evidence. Fee of the Local Commissioner is fixed at Rs.5,500/- per hearing besides a fixed fee of Rs.15,000/- towards the local commission proceedings. The Court as also the Local Commissioner are requested not to grant unnecessary adjournments to the parties and the Court and Local Commissioner are empowered to impose heavy costs on the party seeking unnecessary adjournments and which costs shall be the costs payable in terms of the decree which will be passed in the suit. Local Commissioner as also the parties are put to notice of the judgment of the Supreme Court in the case of ***Bipin Shantilal Panchal Vs. State of Gujarat and Anr. (2001) 3 SCC 1*** so that no evidence is left out but subject to the caveat that none of the parties will lead any evidence on the issues which do not arise in the suit.

3. Accordingly, this appeal is allowed subject to aforesaid observations. Impugned judgment dated 9.8.2017 is set aside.

4. Parties to appear before the District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi on 30th November, 2018

and the District & Sessions Judge will now mark the suit for disposal to a competent court in accordance with law and the observations made in the present order.

5. Appeal is disposed of in terms of aforesaid observations.

6. Dasti to the counsels for the parties.

VALMIKI J. MEHTA, J

OCTOBER 23, 2018

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