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

+ RFA 970/2017 and C.M. Nos.42272/2017 (stay) & 500/2018 (under Section 151 CPC by respondent no.1)

SOUTH DELHI MUNICIPAL CORPORATION & ORS Appellants

Through: Mr. Sanjay Jain, ASG with Mr. Tushar Mehta, ASC, Mr. Sri Harsha Peechara, Standing Counsel, Mr. Ajay Arora, Advocate, Mr. Kapil Dutta, Advocate and Ms. Vidhi Jain, Advocate.

versus

ASHOK SIKKA & ORS

..... Respondents

Through: Mr. Avijit Singh, Advocate with Ms. Heena Sharma, Advocate for respondent No.1 with respondent No.1 in person.
Mr. Uday Chauhan, Advocate for respondent No.2.
Mr. Aditya Vikram Singh, Advocate for respondent Nos.5 and 7.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **01.03.2018**

1. After arguments, it is agreed that this RFA be and is accordingly disposed of in terms of the consent order that the impugned judgment of the Trial Court dated 23.10.2017 is set aside without the same

RFA No.970/2017

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being in any manner a reflection on the merits of the cases of the respective parties, whether in fact or in law. It is also agreed that since the only issues which are framed in the suit are as found at internal page 14 of the impugned judgment, further issues will be required to be framed which would include the issues with respect to entitlement of the plaintiff to the reliefs of declaration, mandatory injunction and damages. The issue of damages will also include the aspect as to what would be the quantification of damages as also if interest has to be awarded on the damages, then, at what rate and for which period.

2. The aforesaid consent order has been passed inasmuch as impugned judgment has been passed deciding the suit without evidence being led by the parties but by applying Order 12 Rule 6 of Code of Civil Procedure, 1908 (CPC). After necessary issues are framed and parties lead evidence on their respective cases, the suit will be decided by the trial court uninfluenced by any observations made in the impugned judgment dated 23.10.2017. It is also agreed that in case any of the parties ask for unnecessary adjournments in the trial court, trial court will impose heavy costs on the party seeking unnecessary adjournments.

3. Appeal is accordingly disposed of in terms of aforesaid consent order.

4. Parties to appear before the District & Sessions Judge, South, Saket Courts, New Delhi on 3rd April, 2018 and the District & Sessions Judge will mark the suit for disposal to a competent court in accordance with law.

5. The amount which is deposited by the appellant in this Court be returned to the appellant subject to the appellant furnishing an undertaking that in case the suit of the plaintiff is decreed, then, appellant will subject to final adjudication will comply with the decree including by making payment of the money decree amount.

VALMIKI J. MEHTA, J

MARCH 01, 2018

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