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

+ CM(M) 10/2018 and CM 213/2018

SUNIL KUMAR & ANR Petitioners

Through: Mr. M.L. Kalra, Advocate

versus

RAJ BALA & ORS Respondents

Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **08.01.2018**

The petition at hand challenges the order dated 18.08.2017 of the Additional District Judge whereby two applications of the petitioners (defendants before the Civil Judge) were dismissed with costs of Rs.2,000/-, first, an application under Order XIX Rule 3 CPC read with Order XIII and Section 151 CPC and the other, under Order XVI read with Section 151 CPC. By the second said application, objection had been taken to the list of witnesses being allowed to be filed by the opposite party (plaintiffs before the civil Court) belatedly. The trial judge has noted in the order that the list of witnesses alongwith affidavits were taken on record on 18.11.2016 subject to costs being imposed which were tendered by the opposite party and accepted by the petitioners. The discretion having been exercised judicially and the condition of costs having been duly complied with,

the objection reiterated through the petition at hand is found to be wholly frivolous.

As far as the other application is concerned, the petitioners take exception to the affidavits of three witnesses which were submitted seeking their rejection on the ground that they do not satisfy the requirement of Order XIX Rule 3 CPC. The affidavits have already been tendered in evidence and the witnesses are yet to be cross-examined by the petitioner through counsel. All objections with regard to the admissibility of the said affidavits in evidence or relevancy of the documents filed therewith can be taken during the course of deposition under cross-examination. The application has been appropriately considered and rejected by the additional District Judge through the impugned order.

The petition is found to be devoid of substance and is dismissed in *limine* with costs of Rs.20,000/-. The pending application also stands dismissed.

R.K.GAUBA, J

JANUARY 08, 2018

Yg

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