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

+ CM(M) 1439/2017 and CM APPL.46056/2017

MOHD. RAFAT KHAN Petitioner

Through: Petitioner in person.

versus

TECKINFO SOLUTIONS PVT. LTD. & ORS. Respondents

Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **13.03.2018**

The civil suit (Suit No.516800/2016) of the petitioner against the respondents instituted on 15.01.2013 for recovery of damages of Rs.19,72,000/- on account of defamation and distress was dismissed by the additional district judge (ADJ) by judgment dated 28.09.2016 on the basis of findings returned on two issues (issues nos.4 and 6) treated as preliminary issues, they including the question of limitation, it having been held that the suit was barred by limitation.

The petitioner has sought to challenge the judgment dated 28.09.2016 of the trial court by the present petition invoking the supervisory jurisdiction of this court under Article 227 of the Constitution of India.

The question of propriety of filing the present petition under the writ jurisdiction in the face of statutory remedy of regular appeal arose. By order dated 18.12.2017, the petitioner, who claims to be a law graduate conversant in law insisting on representing his case, was asked to address the court on

the issue of maintainability. He has submitted brief submissions which have been taken on record. He relies on *Jagdamba Industries vs. Krishan Pratap*, *ILR (2011) II Delhi 122*, the focus of his arguments being that the trial court has fallen into error by treating disputed questions of facts as preliminary issues and has failed to adjudicate upon the other issues.

Pertinent to note the decision in *Jagdamba Industries* (supra) was rendered on an appeal presented under Section 96 of the Code of Civil Procedure, 1908 (CPC). The contentions about propriety of treating questions of fact (assuming the submissions of the petitioner in this regard are correct) as preliminary issues and leaving the other issues unaddressed can also be adjudicated in the course of regular appeal under Section 96 CPC which, given the fact that the suit stands dismissed, is the appropriate remedy.

The petition and the application filed therewith stand dismissed with above observations.

R.K.GAUBA, J.

MARCH 13, 2018

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