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

+ C.R.P. 219/2019 & CM APPL.44216-44217/2019

ALOK K GUPTA & ANR Petitioners
Through: Mr.Vijay Kr.Gupta, Advocate.

versus

ARUN K GUPTA Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **01.10.2019**

1. Petitioner impugns order dated 28.11.2018 whereby the application of the petitioner under Order 12 Rule 6 has been dismissed by holding that there is no clear cut admission, so no judgment on admission under Order 12 Rule 6 can be passed.

2. Learned counsel for the petitioner submits that the said application was filed when the original plaintiff i.e. father of the parties was alive. He submits that the father during his lifetime had executed a gift deed in his favour and consequently the petitioner had become owner of the suit property and entitled to defend the suit in his independent right. He submits that in view of the subsequent admissions made by the respondent after the gift deed was executed, fresh cause of action has accrued to the petitioner to file an application under Order 12 Rule 6.

3. He consequently seeks leave to withdraw the petition with liberty to file an application under Order 12 Rule 6.

4. In view of the above, the petition is dismissed as withdrawn. However, it is clarified that in case a fresh application under Order 12 Rule 6 is filed, the concerned Court would consider the same in accordance with law.

SANJEEV SACHDEVA, J

OCTOBER 01, 2019

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