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

+ **FAO(OS) 146/2019**

BHAKTIPAD MUKHERJEE & ANR Appellants

Through: Ms. Sonia A. Menon, Adv.

versus

SHANTANU MUKHERJEE & ORS Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **05.08.2019**

CM APPL. 34981/2019, 34982/2019 and 34983/2019

Exemptions allowed, subject to all just exceptions. The applications stand disposed of.

FAO(OS) 146/2019, CM APPL. 34984/2019 (to seek condonation of 5 days delay in filing the petition) and 34985/2019 (to seek condonation of 52 days in re-filing the petition)

At the outset, we have put it to learned counsel for the appellants that the present appeal is not maintainable in view of our decision in FAO (OS) 120/2019 titled *SMC Global Securities Limited Vs. Saraswati Gupta and Ors.*, decided on 09.07.2019, since the order under challenge merely frames issues and placed onus in respect of issue Nos. 1 to 5 on the appellants/defendant Nos. 1 and 2. On this, learned counsel for the appellant states that

she would withdraw the present appeal and prefer an application under Order XIV Rule 5 CPC for correction of the issues, as framed, and framing of additional issues which ought to have been framed.

The appeal is, accordingly, dismissed as withdrawn with liberty to the appellant to move the application under Order XIV Rule 5 CPC. If moved, the said application would be considered by the learned Single Judge on its own merits.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 05, 2019

B.S. Rohella