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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 141/2019**
JAIVEER SINGH

..... Appellant

Through : Mr.Anil Panwar, Mr.Tanishq Panwar
and Mr.Anilesh Tewari, Advs.

versus

MAMTA AGGARWAL

..... Respondent

Through : Mr.Naveen Gaur and Mr.Kaushlender
Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **13.01.2020**

CM APPL.No.52795/2019

This application is for recalling of the order dated 18.02.2019.

Order dated 18.02.2019 notes as under :

3. Learned counsel for the appellant after arguments took a pass-over to take instructions, and after taking instructions it is stated that whereas the appeal can be disposed of as not pressed by confirming the decree for possession in favour of the respondent/plaintiff, however, the case of the respondent/plaintiff, as per the plaint, was that the suit property was only a plot of 325 sq. yds whereas presently on the suit plot there is a property which is constructed of 2 ½ floors, and therefore, the appellant/defendant is entitled to remove the 2 ½ floors or in the alternative get a price for this constructed property from the respondent/plaintiff who can take the constructed property as it is from the appellant/defendant by not demolishing the same and removing the constructed portion.

4. Limited to the aforesaid aspect, let notice be issued to the respondent on filing of process fee, both in the ordinary method as well as by registered AD post, returnable on 26th March, 2019.

5. Till further orders unless varied by the Court, there shall be stay of operation of the impugned judgment 22.2.2018 passed by the court of

Ms.Charu Aggarwal, ADJ-03 (West) Tis Hazari Courts, Delhi in Suit No.612669/2016 titled as Smt. Mamta Aggarwal Vs. Jaiveer Singh.

This order was passed in the presence of counsel for the applicant wherein the appeal, per instructions from his client was not pressed. The appellant has not filed an appeal against the order dated 18.02.2019 till date, though he relies upon an order dated 17.07.2019 which is not in consonance with order dated 18.02.2019. Admittedly, in order dated 18.02.2019 only a limited notice was issued. The appeal is to be heard only qua the said limited notice and not otherwise, hence, the prayer now made in the application for modification/ review of order dated 18.02.2019 cannot be allowed.

The application stands dismissed.

RFA 141/2019, CM APPL.No.7387/2019, 48264/2019

At this stage, learned counsel for the appellant says he is not inclined to accept any money, muchless Rs.25 lacs, as was offered on 17.07.2019 towards cost of construction. Since the appellant *is* not inclined to accept money offered, there is no point in continuing with the proceedings, hence the appeal is disposed of, per order dated 18.02.2019. However the appellant is given liberty to reconsider this option viz. of accepting Rs.25 lacs towards cost of construction or such other amount as may be amicably agreed between both the parties, before the learned Executing Court, lest the executing Court may execute the decree.

Pending applications also stand disposed of.

YOGESH KHANNA, J.

JANUARY 13, 2020/VLD