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

+ RFA(OS) 11/2020

ANEES JEELANI & ORS Appellants
Through: Mr. A.K. Singla and Mr. Karan Jeena,
Advocates.

versus

HARISH ARORA & ORS Respondents
Through: None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **29.01.2020**

RFA(OS) 11/2020, C.M. No. 3554/2020 (by the appellant for *ad-interim* stay), C.M. No. 3555/2020 (Exemption) and C.M. No. 3556/2020 (by the appellant for condonation of delay of 37 days in filing the appeal)

1. The present appeal is directed against the order dated 17.10.2019, passed by the learned Single Judge in a suit for declaration filed by the appellants/plaintiffs claiming *inter alia* that they are entitled to 20 % undivided share in premises bearing No. E-174, Kalkaji, Delhi, admeasuring about 571 sq. yds. having purchased the said share from the respondent No.1 by virtue of a Sale Deed dated 23.3.2018 and that any sale, gift or transfer of the suit premises without their consent, be declared as null and void.

2. By the impugned order, the learned Single Judge has held that the reliefs prayed for by the appellants/plaintiffs at prayers (i) (a), (b) and (c) in

the suit instituted by them [CS(OS) No. 504/2019], is not maintainable in the absence of any challenge laid by them to a preliminary decree of partition passed in CS(OS) No. 459/2017, filed by the respondents No. 3, 4 and 6 herein, in respect of the very same premises on 08.5.2019. The learned Single Judge held that at best, the appellants/plaintiffs will be entitled to press for the relief at prayer (i) (d) whereunder, they have sought 20% share in the sale proceeds of the suit premises on its sale and prayer (ii) for the relief of costs.

3. After addressing arguments at some length, learned counsel for the appellant seeks leave to withdraw the present appeal.

4. Leave, as prayed for, is granted. The appeal is dismissed as withdrawn along with the pending applications.

HIMA KOHLI, J

ASHA MENON, J

JANUARY 29, 2020

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