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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 3578/2024 & CM APPL. 59642-59643/2024**
DEITY OF MAA KAALI, MAHAVIR ENCLAVE KALI BARI
MANDIR AND ORS

.....Petitioner

Through: Mr. Shiv Prakash Pandey with
Ms.Sharmishta Choudhary,
Mr. Raghav Pandey, Ms. Gauri
Pandey, Advocates.

versus

DEEPAK KUMAR MUKHERJEE AND ORS

.....Respondent

Through: Mr. S. Chakraborty with Mr. Umesh
Kumar and Mr. Sunil Panwar,
Advocates for respondent Nos.1 to 7, 9
& 10
Mr. Anant, Advocate for Ms. Srija
Chaudhary, Advocate for Respondent
No.8 (through V.C.)

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

08.10.2024

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1. Petitioners are plaintiffs before learned Trial Court and are aggrieved by order dated 05.10.2024 whereby their application moved under Order XXXIX Rule 1 and 2 CPC has been dismissed.
2. When asked, learned counsel for the petitioners, very fairly, admitted that against such order, an appeal would be maintainable under Order XLIII Rule 1(r) CPC.

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3. It is, however, important to note that the impugned order has been passed by the Court of learned Civil judge and in such a situation, the appeal, if any, would lie before the learned District Judge concerned.
4. In view of the above and since there is a statutory remedy to file appeal against the order impugned herein, the present petition is disposed of as not maintainable.
5. However, the petitioner is at liberty to file appropriate appeal before the Competent Court of jurisdiction.
6. The petition stands disposed of, accordingly.

MANOJ JAIN, J

OCTOBER 8, 2024/sw