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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 436/2019 & CC No. _____/2019
USHA SAINI & ORS. Plaintiffs

Through: None.

Versus

KRISHNA SAINI & ORS. Defendants

Through: Mr. Yash Laxmi Sharma, Adv. for D-5&6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **07.01.2020**

IA No.78/2020 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

IA No.77/2020 (of defendants no.5 and 6 under Order IX Rule 7 of the CPC)

3. The defendants no.5 and 6, blaming their earlier counsel and by engaging a new counsel, seek setting aside of the order dated 4th December, 2019 insofar as proceeding *ex parte* against the applicants / defendants no.5 and 6.
4. None appears for the plaintiffs or any of the other defendants.
5. Vide order dated 4th December, 2019, after directing pleadings to be completed and affidavits of admission / denial of documents to be filed, the suit was posted for hearing on 31st March, 2020. It appears that issuing notice of this application will delay rather than do any benefit to any of the parties in this suit for partition.

6. The issuance of notice of the application is thus dispensed with.
7. The counsel for the applicants / defendants no.5 and 6, on enquiry states that written statement shall positively be filed on or before 21st January, 2020 with advance copy to the counsels for all the other appearing parties.
8. Accepting the same and binding the applicants / defendants no.5 and 6 thereto and clarifying that if the written statement is not so filed, the order proceeding *ex parte* against defendants no.5 and 6 will stand, the application is allowed and the order proceeding *ex parte* against defendants no.5 and 6 is set aside.
9. The application is disposed of.

CS(OS) No.436/2019

10. Upon written statement being filed by the defendants no.5 and 6 by 21st January, 2020, replication thereto be filed on or before 28th February, 2020.
11. The defendants no.5 and 6 to file affidavits of admission / denial of documents of the other parties before the next date of hearing.
12. List as already scheduled on 31st March, 2020.

RAJIV SAHAI ENDLAW, J

JANUARY 07, 2020
‘gsr’..