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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RSA 81/2018**
SUMANT & ANR

..... Appellant
Through: Mr. Anil Sharma, Mr. Arun Baali, Adv.

Versus

HARVIR SINGH

..... Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **21.05.2018**

CM APPL. 21193/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed off.

CM APPL. 21195/2018

For the reasons stated in the application, the delay of 10 days in refilling the appeal is condoned.

The application stands disposed off.

RSA 81/2018 & CM APPL. 21194/2018 (stay)

The respondent's/plaintiff's suit for permanent and mandatory injunction had been dismissed. However, the impugned order by the appellate Court has decreed the suit in his favour.

It is the appellants' case that in view of the clear admission by the plaintiff that the passage being used by the parties to access their respective portions of the ancestral property had always been



understood to be a common passage, therefore, the impugned order erred in concluding that the passage would be exclusive to the plaintiff.

The learned counsel for the appellants submits that when there is an admission by a party, then that party is bound by the same. He refers to section 50 of the Indian Evidence Act, 1972 as well as the judgment of the Supreme Court in ***Dinesh Kumar vs. Yusuf Ali*** (2010) 12 SCC 740.

Issue notice through ordinary process, Speed Post, approved courier, *dasti*, through counsel as well, returnable on 04.10.2018.

NAJMI WAZIRI, J

MAY 21, 2018/acm