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

I.A. 564/2021 in

+ TEST.CAS. 54/2018

RAKESH MISHRA

..... Petitioner

Through: Mr. Abhishek Paruthi, Adv.

versus

STATE NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Gurmeet Bindra, Adv. for R-3
& 4

Mr. Shantanu Singh, Adv. for R-2, 5 & 6

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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14.01.2021

(Video-Conferencing)

I.A. 564/2021 (under Section 151 of CPC) in TEST.CAS. 54/2018

1. This is an application by Respondent Nos. 3 and 4 under Section 151 of the Code of Civil Procedure, 1908 for taking, off the record of the present proceedings, the counter affidavit filed by Respondent No.2 to the objections of Respondent Nos. 3 and 4 or to the objections of the petitioner.

2. Mr. Shantanu Singh, learned Counsel for Respondent Nos. 2, 5 and 6 submits that this application is completely misconceived, in view of the order dated 29th August, 2019 passed by a Coordinate Bench of this
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Court, which has treated the counter affidavit filed by Respondent No. 2 to the objections of Respondent Nos. 3 and 4 as the statement of Respondent No.2 on the matters in dispute herein. As such, there can be no question of taking the counter affidavit of Respondent No. 2, to the objections filed by Respondent Nos. 3 and 4, off the record, as sought by the said respondents in this application. The prayer in the application is accordingly rejected.

3. Ms. Bindra, learned Counsel for Respondent Nos. 3 and 4 i.e. the applicants in the present application submits that she would be filing a response to the aforesaid counter affidavit filed by Respondent No. 2. Mr. Abhishek Paruthi, learned Counsel for the petitioner submits that there is no provision in law, which permits the filing of any such response.

4. Without expressing any opinion on the entitlement, of Respondent Nos. 3 and 4, to file a response to the counter affidavit of Respondent No.2, the submission of Ms. Bindra is recorded. Should any such affidavit be filed, it would be open to the respondents and the petitioner to contest the permissibility and maintainability thereof.

5. With the aforesaid observations, this application stands disposed of.

C. HARI SHANKAR, J

JANUARY 14, 2021/kr

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