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

+ CM(M) 351/2018 and CM 11987-11988/2018

PRATIBHA AND ANR Petitioners

Through: Mr. Amar Nath Saini, Advocate

versus

STATE AND ORS

..... Respondents

Through: Mr. N.S. Arora, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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23.03.2018

The first petitioner had brought before the Court of the District Judge a probate case (PC no.37/09) in September 2009 on her behalf and also on behalf of the second petitioner described as her brother who is statedly of unsound mind. It appears that a formal application under Order XXXII Rule 1 CPC was moved for she (first petitioner) to be appointed as the next friend of the second petitioner. It is her case in the petition that inspite of the fact that there is no formal adjudication on the said application till date, the trial Court has failed to pass any effective order short-shrifting the issue by order dated 24.02.2018. A perusal of the impugned order dated 24.02.2018 reflects that the trial judge was persuaded to take the course he took upon perusal of the order dated 19.01.2010 wherein, according to the observations in the impugned order, the petition was found to be maintainable in view of Order XXXII Rules 1 and 15 of the CPC. The copy of the order dated 19.01.2010 which has been

referred has also been filed (at page 49 of the paper book) but it does not reflect any adjudication on the application aforesaid.

At this stage, the counsel for the petitioner submitted that he may be permitted to withdraw the captioned petition and the applications filed therewith and instead be given liberty to approach the trial judge by review application pointing out the aforementioned error, deficiency and facts.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed granted.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J

MARCH 23, 2018

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