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

+ CM(M) 1250/2017

**VIKRANT CHILDREN FOUNDATION &
RESEARCH CENTRE**

..... Petitioner

Through: Mr. Manmeet Singh Arora, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Akshita Manocha and Ms. Kajri
Gupta, Advs. for Mr. Dhanesh Relan,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.11.2017

CM No.39720/2017 (for exemption)

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

CM(M) 1250/2017 & CM No.39721/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 11th October, 2017 in CS No.8422/2016 of the Court of Additional District Judge (ADJ)-01 (South), Saket Courts, New Delhi] refusing to keep in abeyance the recoding of evidence in a suit filed by the petitioner/plaintiff as far back as in the year 2005 against the respondent/defendant impugning the cancellation by the respondent/defendant Delhi Development Authority (DDA) of lease of the land granted to the petitioner and for restraining the respondent DDA from

interfering in peaceful possession of the petitioner/plaintiff in the said land and in which suit, the petitioner/plaintiff is enjoining an interim order without contest of restraining from the respondent/defendant DDA from dispossessing the petitioner/plaintiff from the said land.

4. The reason, for which the petitioner/plaintiff even after 12 years of filing of the suit is not wanting to lead evidence in the suit, is a public notice issued by the respondent/defendant DDA on 24th June, 2017 for amicable settlement of disputes and in which public notice, the subject land is also stated to be mentioned and in response where to the petitioner/plaintiff claims to have applied. It is contended that recording of evidence will prejudice consideration of the said application of the petitioner/plaintiff.

5. I fail to understand as to how the same can be a ground for the petitioner/plaintiff not to lead any evidence. Merely because the respondent/defendant DDA, being a public authority, is making an attempt to amicably settle the pending disputes, does not mean that the proceedings in the suits which are pending before the Courts should come to an end or to remain stalled. Just like respondent/defendant DDA as a public authority is attempting amicable settlement, similarly, if the petitioner/plaintiff is found to be covered by the policy adopted by the respondent/defendant DDA, the petitioner/plaintiff would get the benefit thereof but proceedings in the suit, which is already over 12 years old, cannot be stalled.

6. It is quite obvious that the aforesaid stand was taken to continue the benefit of the interim order which the respondent/defendant DDA did not chose to contest.

7. The petitioner/plaintiff cannot, on the one hand delay the disposal of the suit and on the other hand continue enjoying the interim order.
8. The effort of the petitioner/plaintiff to do the same is indeed found to be abusive.
9. The counsel for the petitioner/plaintiff withdraws the petition.
10. The petition is dismissed as withdrawn.
11. The learned ADJ, before whom the suit is pending, to ensure disposal thereof in consonance with the directives of the National Court Management Systems Committee of the Supreme Court and State Court Management Systems Committee of this Court.
12. A copy of this order be forwarded to the concerned ADJ.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 06, 2017
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