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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 105/2016
M/S ROXY DRYCLEANERS Petitioner
Through Mr.P.P.Ahuja, Advocate.

versus

SAMEER WASON & ANR Respondents
Through Mr.P.K.Rawal and Mr.Tarun Aggarwal,
Advocates.
+ CM(M) 106/2016
M/S ROXY DRYCLEANERS Petitioner
Through Mr.P.P.Ahuja, Advocate.

versus

SAMEER WASON & ORS Respondents
Through Mr.P.K.Rawal and Mr.Tarun Aggarwal,
Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% 02.02.2016

C.M. No.3818/2016 (exemption) in CM(M) 105/2016

C.M. No.3828/2016 (exemption) in CM(M) 106/2016

Exemption is allowed subject to just exceptions. Application disposed of.

CM(M) 105/2016, C.M. No.3819/2016 & Cav No.101/2016
CM(M) 106/2016 & C.M. No.3829/2016

Petitioner before this Court is the tenant in the Trial Court. He has impugned two orders in two separate petitions. The first order which is

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the impugned is the order dated 25.01.2016. Vide this order the evidence of the petitioner/respondent had been closed as the Trial Court was of the view that there has been unnecessary and unjustifiable delay on the part of the respondent. He was trying to delay the proceedings. The second order impugned before this Court is also of the same date vide which his right to file certain additional documents by virtue of an application under Order 8 Rule 1 A CPC had been declined.

There is a caveat and learned counsel for the non-applicant (petitioner in trial Court) has put in appearance.

Needless to state that the prayer made in the present petition seeking redressal of the grievance in terms of order dated 25.01.2016 has been vehemently opposed.

This case has a chequered history. The present suit has been filed by the landlord seeking eviction of the two shops which had been tenanted out to the petitioner namely Roxy Drycleaners in 1963-64. The application seeking leave to defend filed by the tenant had been declined. This had been endorsed by the High Court. The matter reached the Supreme Court. The Supreme Court had remanded back the matter to the ARC and proceedings were directed to be continued and decided expeditiously. Before the ARC an undertaking had been given by the petitioner/tenant that he would conclude his evidence within an outer limit of six months.

Learned counsel for the landlord/non-applicant submits that that period has since long elapsed; that period had expired in June 2015. Record shows that the plaintiff/landlord has completed his evidence on 06.01.2016. The impugned order had been passed within a time span of

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20 days and the matter was being taken up on day to day basis; order sheets do disclose that there have been laxities on the part of the petitioner/tenant. The affidavit of Jatinder Pal Singh had been filed on 20.01.2016 but he failed to appear on the witness box on that date. He even did not appear on the subsequent date i.e. 21.01.2016. The Court was perforce constrained to pass the impugned order on 25.01.2016 noting the submission and the counter submission of the parties.

At this stage keeping in view the interest of justice and noting the fact that the affidavit which now the petitioner seeks to incorporate and to place on record is that of Jatinder Pal Singh (the respondent), last opportunity is granted to the petitioner to produce Jatinder Pal Singh into the witness box (in terms of the affidavit which he has already filed on 20.01.2016.) The witness Jatinder Pal Singh shall appear before the Trial Court today itself which is the date fixed before the Trial Court. The Trial Court shall conclude the evidence of the respondent today itself. Learned counsel for the landlord/non-applicant submits that he shall conclude cross-examination of the witness today or tomorrow. No further orders are called for in this petition. This order is passed subject to cumulative cost of Rs.5000/- to be deposited with the Delhi High Court Legal Services Committee.

Both the petitions disposed of in the above terms.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

FEBRUARY 02, 2016

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