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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 7479/2012, CMs No.15120/2014 (u/O I R 10 CPC),
16520/2014 (for stay), 16521/2014 (u/O I R 10 CPC) & 21121/2014
(for stay)

ELIAMMA SEBASTIAN

..... Petitioner

Through: Mr. Ramesh Singh, Advocate /
Amicus Curiae

versus

THE GENERAL MANAGER HDFC LTD

..... Respondent

Through: Mr. Rajesh Gogna, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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01.02.2016

1. The petitioner is a defendant in a suit filed by the respondent HDFC Ltd. for recovery of the housing loan advanced to the petitioner. This petition under Article 226 of the Constitution of India was filed seeking directions to the respondent HDFC to i) return the unencashed cheques taken from the petitioner, ii) return the documents of the flat submitted by the petitioner at the time of taking the loan, iii) to explain the basis of the interest charged, iv) from making any claim against the petitioner, and v) to settle the claim with the petitioner.

2. The petition came up first before this Court first on 3rd December, 2012 when though it was observed that the filing of the present petition does not appear to be the correct course of action for the petitioner but to ascertain whether any settlement could be brought about, notice of the petition was issued.

3. The respondent HDFC Ltd. appeared and gave a proposal for settlement but which was obviously not accepted by the petitioner and the petition has continued to languish since then.
4. Finding the petitioner to be pursuing the petition in person, Mr. Ramesh Singh, Advocate then present in the Court was appointed as the Amicus Curiae for assistance of the petitioner and has thereafter been canvassing the case of the petitioner.
5. I have today heard the learned Amicus Curiae as well as the petitioner in person and feel that no purpose will be served in keeping this petition pending which in any case is misconceived. The petitioner, if has any grievance with respect to the proceedings before the Trial Court, has remedies in accordance with law. The purpose for which notice was issued i.e. of exploring possibility of a settlement has not been served.
6. On enquiry, it is informed that the suit is still pending consideration.
7. In these circumstances, the petition is dismissed keeping open however all the pleas of the petitioner and with the clarification that the dismissal of this petition shall not adversely affect the petitioner before the Trial Court or in any proceedings arising from the said suit and the petitioner shall be entitled to take all pleas as taken in this petition at the appropriate stage.
8. Dismissed.
9. The Court expresses its gratitude to Mr. Ramesh Singh, Advocate for rendering assistance to the Court.

RAJIV SAHAI ENDLAW, J

FEBRUARY 01, 2016/‘gsr’..

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