

\$~A-6

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

+ CM(M) 329/2017

SEHDEV SINGH & ORS. Petitioner
Through Mr.Satya Pal, Adv.
versus
ABHAY KUMAR SINGH Respondent
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

12.04.2017

CM Nos.11359-11360/2017

Exemption allowed, subject to all just exceptions.

CM(M) 329/2017 & CM No.11358/2017 (stay)

1. The present petition is filed seeking to impugn the order dated 24.01.2017 by which two applications filed under Order 47 Rule 1 CPC and second under section 151 CPC were dismissed. The respondent has filed a suit for possession. The respondent claims title to the property and states that the petitioner was allowed to reside in the suit property for a short period. The petitioners denied the title of the respondents.
2. Respondent's evidence/P.E. was closed on 11.1.2016. The matter was fixed for D.E./petitioner's evidence on various dates but no evidence was produced. On 8.10.2016 last and final opportunity was given for petitioners' evidence subject to costs of Rs.5,000/- and the matter was fixed for

1.12.2016. On the said date one affidavit in defence evidence was filed but costs were not paid. Hence, D.E.was closed.

3. Instead of paying the costs now the petitioner has been filing one application after the other. Costs have also not been paid. On 10.1.2017 part costs were offered which were refused by the respondent. The trial court noted that since 11.1.2016 one year has been wasted on account of D.E. and instead of examining the witness the issue of costs is repeatedly being challenged by filing miscellaneous applications. Only after 5-6 adjournments the petitioner has agreed to pay the costs and hence the trial court noted that no effective purpose was served by imposing the costs as the object was to expedite the suit. Hence, both the applications were dismissed.

4. Even today, before this court learned counsel for the petitioner submits that the petitioners are poor people but are now ready to pay the costs. Given the conduct of the petitioners which is noted by the trial court, namely, the needless delay in leading the evidence at the first stage and thereafter seeking several adjournments to pay costs of Rs.5,000/- it is clear that the petitioners are not serious about the case and are adopting dilatory tactics. There is no merit in the petition. Same is dismissed. All pending applications, if any, also stand disposed of accordingly.

(JAYANT NATH)
JUDGE

APRIL 12, 2017

n