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

+ **CM(M) 303/2017**

SUNAINA DEVI

..... Petitioner

Through: Mr. Bipin Kumar Jha, Adv.

Versus

MOOL CHAND PATWARI (RETD) & ORS Respondents

Through: Mr. Davinder Varma, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.07.2017**

CM No.10426/2017 (for exemption)

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

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3. This petition under Article 227 of the Constitution of India impugns the order (dated 7th August, 2015 of the Court of the Additional District Judge (ADJ)-02, South-East District, Saket Courts, New Delhi in M. No.8/2015) of dismissal of an application filed by the petitioner / plaintiff under Order IX Rule 4 of the CPC.
4. Notice of the petition issued and the respondents no.1 and 2 are reported to have died and the respondent no.3 has been served.
5. Only the counsel for the respondent no.3 appears.
6. Trial Court, in the impugned order, has in detail set out the defaults committed by the petitioner / plaintiff in pursuing the suit since 19th September, 2009. Need to repeat the same is not felt. Suffice it is to state that the petitioner / plaintiff availed of several opportunities at each

successive stage of the suit, i.e. to make up deficiency in court fees, and to serve the respondents. The suit was dismissed in default of appearance of the petitioner / plaintiff on 1st April, 2013; an application for restoration filed was dismissed in default on 21st July, 2014. Similar application filed for restoration thereof, was dismissed in default of appearance on 8th April, 2015.

7. It was in the aforesaid state of affairs that yet another application filed for restoration of the earlier applications was dismissed vide the impugned order.

8. The counsel for the petitioner / plaintiff does not find any error with the factual scenario as set out in the order. He however states that the petitioner / plaintiff will suffer and one more opportunity be given.

9. Litigants cannot be permitted to make mockery of the Court procedure and the Courts are not meant for litigants who are unable to pursue their matters diligently. Though more than eight years have passed since the institution of the suit but no substantial proceeding appear to have taken place in the suit.

10. This Court in exercise of powers under Article 227 of the Constitution of India ought not to interfere in the orders of the Courts below which are correct as per the record and any interference by this Court in such orders would negate otherwise administrative exhortation of the Judicial Officers to expedite the matters pending before the Courts.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 24, 2017/‘gsr’..

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