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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 324/2016**
INDERDUTT SALWAN & ANR

..... Petitioner

Through: Mr. Madhav Khurana and Mr. Amrit Grewal, Advs.

Versus

UMA DEVI & ORS

..... Respondent

Through: Mr. Arun Srivastava, Adv. for R-1 and R-2.

Mr. Sameer Nandwani, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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15.05.2017

CM APPL. 1793/2017 (by the petitioner for stay)

Mr. Madhav Khurana, the learned counsel for the petitioner submits that no proof is readily available apropos deposit of cost of Rs.3,500/- as was directed in terms of the Tribunal's order dated 22.09.2015. In the circumstances, the Court is of the view that the petitioner has been remiss in prosecuting the case. The Court bears in mind that earlier on three occasions costs of Rs.1,000/- + Rs.1,000/- and Rs.6,000/- were imposed upon the petitioner by the Tribunal for delays and non-prosecution. There appears to be a consistent pattern of non-prosecution.

At this stage, it is stated that the cost of Rs. 3500/- was deposited last week. Be that as it may, it betrays a lack of diligence in pursuing the matter since costs were imposed on the petitioner on three earlier occasions as well.

However, keeping in mind that closing the petitioner's right to lead his evidence would irreparably prejudice the case, the Court is of the opinion that in the interest of justice the petitioner be accorded a last and final opportunity to lead evidence. It is so ordered, subject to payment of costs of Rs.45,000/- to R-1 and R-2 – the claimants to be shared equally between them, for the delay in the proceedings and inconvenience caused to them. The costs shall be paid within two weeks. The petitioner shall have an opportunity to lead evidence on 30.05.2017 before the Tribunal. The learned counsel for the petitioner assures the Court that he will lead his entire evidence on the said date and will not seek any adjournment whatsoever. Accordingly, no adjournment shall be granted on the said date at the petitioner's request. The learned counsel for the parties submit that they will request the Tribunal to complete final hearing of the case preferably before the summer vacations and to dispose off the case within three months thereafter.

The application is allowed in the above terms.

A copy of this order be given *dasti* to the parties under the signatures of the Court Master.

The date of 09.08.2017 stands cancelled.

NAJMI WAZIRI, J.

MAY 15, 2017

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