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

+ C.R.P. 79/2017 and CM 12638/2017

UNION OF INDIA Petitioner
Through: Mr. Sanjeev Narula, CGSC and Ms.
Arunita Chandra, Advocate
versus

DR SAHADEVA SINGH Respondent
Through: Mr. Praveen Singh, Advocate with
Respondent in person

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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14.12.2017

The petitioner is defendant before the Additional District Judge in civil suit instituted by the respondent, it being CS no.56590/2016 whereby damages in the sum of Rs.5 Lakh are claimed for acts of commission and omission allegedly constituting harassment. The petitioner having contested the said civil suit, the trial judge had taken it to trial by framing issues on 19.11.2011 placing the burden primarily on the plaintiff. When the matter was before the trial Court for hearing on 23.11.2015, an issue was added on the question of limitation and treated as a preliminary issue. By a subsequent order, however, passed on 26.12.2016, the Additional District Judge observed that the issue thus additionally framed was a mixed question of fact and law and therefore, could not be treated as a preliminary issue. It is the said order which was challenged by the present petition, the defendant of the case insisting that the issue in question

is preliminary and requires to be adjudicated first.

When the matter was heard in part in the pre-lunch session, it came out from the submissions of both sides that the case had already reached the stage of filing determination, evidence of both the plaintiff and the defendant having already been adduced.

Given this situation and the provision contained in Order XIV Rule 2 of CPC, the learned counsel for the petitioner was asked to explain as to how at this stage the issue can be considered as preliminary issue. He sought passover so that he could seek instructions.

In the post-lunch session, the learned counsel submits that there are no instructions and the petition may be decided on its merits.

In the given fact situation, where the case has already reached the stage of final adjudication, evidence having already been led by both sides, it is improper for the petition at hand to be continued with, particularly in view of the provision contained in Order XIV Rule 2 CPC whereunder it is the obligation of the trial court in law to pronounce the judgment on all the issues.

The petition is devoid of substance and is dismissed with cost of Rs.25,000/- to be deposited with Delhi High Court Legal Services Committee. The pending application also stands dismissed.

R.K.GAUBA, J

DECEMBER 14, 2017/yg
C.R.P. 79/2017

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