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

+ CM(M) No.392/2017

ICICI BANK LTD

..... Petitioner

Through: Mr. Punit K. Bhalla, Ms. Chetna
Bhalla and Mr. Rachit Bigghe, Advs.

versus

RAJENDER KUMAR

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **17.07.2017**

1. This petition under Article 227 of the Constitution of India impugns the order dated 1st April, 2017 of the Court of Additional District Judge-II (Central) in CS No.265/2017 filed by the petitioner against the respondent of though issuing summons of the suit to the respondent, not granting the relief sought by the petitioner / plaintiff in the application filed by the petitioner / plaintiff along with the suit for appointment of a Receiver for taking possession of the hypothecated vehicle.

2. This petition came up before this Court first on 17th April, 2017 when on the statement of the counsel for the petitioner / plaintiff that in some identical matters orders were awaited, this petition was adjourned to 26th April, 2017 and thereafter on the same ground from time to time till today.

3. The counsel for the petitioner / plaintiff states that the petitioner / plaintiff on the same day had filed five similar suits against five different defendants and all of which had come up before the same Additional District Judge on 1st April, 2017 and in all of which same order was passed, denying

the appointment of Receiver.

4. The counsel for the petitioner / plaintiff has in Court handed over a copy of the order dated 12th April, 2017 of this Court in CM(M) No.388/2017 being one of such other four matters and states that three other matters also being CM(M) No.384/2017, CM(M) No.385/2017 and CM(M) No.386/2017 were disposed of vide similar order.

5. The counsel for the petitioner / plaintiff states that this petition be also disposed of on the same lines.

6. Vide order dated 12th April, 2017 this Court has observed that “it is not clear as to why the Trial Court did not deal with the application for appointment of Receiver” and has appointed the Receiver with directions as contained therein.

7. I have considered the controversy. There is no reason to disbelieve the counsel.

8. There is also need to maintain consistency in the orders of the Court. Once a Co-ordinate Bench has on similar facts passed the order dated 12th April, 2017, I do not see any reason why the same order should not follow in this petition.

9. The counsel for the petitioner / plaintiff states that advance copy of this petition also has been sent to the respondent.

10. Need to issue any notice to the respondent is not felt as the order aggrieved wherefrom this petition has been filed is also an *ex parte* order.

11. Accordingly, the petition is allowed.

12. Mr. Kunal Mishra, the representative of the petitioner Bank is appointed as the Receiver with the following directions:

12.1 The receiver, while taking possession of the subject vehicle will ensure that the due courtesies are extended to the respondent/ defendant.

12.2 The receiver will also keep in mind the time and the place where the subject vehicle is taken possession of. If, at the time of taking possession, the respondent/ defendant were to pay the sums, which are due and payable then, the receiver, will issue a receipt in that behalf to the respondent/ defendant and release the vehicle on superdari to him.

12.3 In case the police assistance is required, the receiver will approach the Station House Officer manning the nearest police station, who, in such an eventuality, shall render due assistance to enable compliance in the matter.

12.4 The receiver will file his report with the trial court within ten days of taking possession of the subject vehicle.

12.5 In case the receiver is successful in obtaining possession of the subject vehicle before the next date of hearing, the trial court will pass appropriate orders on the next date of hearing.

12.6 However, in case the subject vehicle is not traced till the next date of hearing, the trial court will, accordingly, extend the period for locating the vehicle and, in that behalf, pass appropriate orders in the pending application.”

13. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

Dasti.

RAJIV SAHAI ENDLAW, J

JULY 17, 2017

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