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

+ CM(M) 485/2017

GANDHI SMARAK NIDHI

..... Petitioner

Through: Mr.A.K.Singla, Senior Advocate
instructed by Mr.Rahul Shukla,
Advocate.

versus

ANIL DUTTA MISHRA

..... Respondent

Through: None.

AND

+ CM(M) 486/2017

GANDHI SMARAK SANGHARALAYA
SAMITI & ANR

..... Petitioners

Through: Mr.A.K.Singla, Senior Advocate
instructed by Mr.Rahul Shukla,
Advocate.

versus

DR ANIL DUTTA MISHRA

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.05.2017

CM(M) 485/2017

CM(M) 486/2017

1. By filing these two Civil Misc.(Mains), the petitioners have invoked the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India being aggrieved by the delay in disposal of the
CM(M) Nos.485 & 486 of 2017

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applications filed before the learned Trial Court i.e. one application filed under Order XII Rule 6 CPC filed in Civil Suit No.615464/2016 titled as '*Gandhi Smarak Sangharalaya Samiti vs. Dr.Anil Dutta Mishra*' and another application under Order VII Rule 11 CPC filed in Civil Suit No.615373/2016 titled as '*Dr.Anil dutta Mishra s. Gandhi Smarak Sanghralaya Samiti & Ors.*', which have been pending for orders for a long time.

2. The prayer made in CM(M) No.485/2017 is that directions may be issued to learned ADJ-07, Central District to pass orders on the application under Order XII Rule 6 CPC filed in Civil Suit No.615464/2016, arguments on which have been heard and kept for orders on 26th October, 2016.

3. CM(M) No.486/2017 has been filed by the petitioners praying for issuance of directions to learned ADJ-07, Central District to pass orders on the application under Order VII Rule 11 CPC filed in Civil Suit No.615373/2016, arguments on which have been heard and kept for orders on 26th October, 2016.

4. Mr.A.K.Singla, learned Senior Counsel for the petitioner submits that the arguments on the above noted two applications were concluded on 26th October, 2016. Since then the orders on the applications have not been pronounced and the applications are simply adjourned on several dates of hearing i.e. 9.11.2016, 8.12.2016, 22.12.2016, 20.01.2017, 03.02.2017, 17.02.2017, 25.02.2017 by fixing the matters for "clarification/orders".

5. Mr.A.K.Singla, learned Senior Counsel for the petitioners submits that when the orders on the applications under Order XII Rule 6 CPC and under Order VII Rule 11 CPC have been repeatedly deferred from 9th November, 2016 till 25th February, 2017, the petitioners were compelled to

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file CM(M) No.331/2017. However, the said Civil Misc.(Mains) No.331/2017 was withdrawn for the reason that the Court had fixed the date of hearing as 28th March, 2017 in the hope that the application would be disposed of. The petitioners continued waiting for the orders on the application but the matters have been deferred from 28th March, 2017 to 11th April, 2017, thereafter to 25th April, 2017 and then to 9th May, 2017. In the given circumstances, the petitioners are again constrained to approach this Court for issuance of directions to the learned ADJ-07, Central District, for speedy disposal of the applications.

6. Vide order dated 5th May, 2017, a report was called in sealed cover from the learned ADJ-07, Central District, Tis Hazari, Delhi about the reason for not being able to dispose of the application under Order XII Rule 6 CPC in Civil Suit No.615464/2016 and application under Order VII Rule 11 CPC in Civil Suit No.615373/2016.

7. Today report has been received from learned ADJ-07, Central District, Tis Hazari, Delhi to the effect that he has taken over as ADJ-07, Central District on 16th May, 2017 pursuant to the transfer/posting orders No.12/Delhi High Court/Gaz./G-1/VI.E.2(a)/2017 dated 15th May, 2017. It is also assured that he will make best efforts to dispose of the applications at the earliest which are now listed for 15th July, 2017 for arguments.

8. In view of the report received, learned Senior Counsel for the petitioners seeks permission to withdraw both the petitions.

9. Accordingly, both the petitions are dismissed as withdrawn.

10. It is hoped and expected that the application under Order XII Rule 6 CPC filed in Civil Suit No.615464/2016 and application under Order VII Rule 11 CPC filed in Civil Suit No.615373/2016 shall be disposed of by

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learned ADJ-07, Central District, Tis Hazari, Delhi within three months from the next date of hearing i.e. 15th July, 2017 when the above two civil suits are coming up for hearing before the learned Trial Court.

11. A copy of this order be sent to the learned ADJ-07, Central District, Tis Hazari Court, Delhi for information and compliance and be also given dasti to learned counsel for the petitioners, as prayed.

CM No.16702/2017 in CM(M) No.485/2017

CM No.16704/2017 in CM(M) No.486/2017

Dismissed as infructuous.


PRATIBHA RANI, J.

MAY 29, 2017

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