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

+ CM(M) 511/2017

BHOUM SINGH

.....Petitioner

Through: Mr.Azam Ansari, Advocate

versus

SANT KAUR

.....Respondent

Through: Mr.Puneet Aggarwal & Mr.R.B.
Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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05.05.2017

CM No.17255/2017 & 17253/2017

1. Exemption allowed, subject to all just exceptions.
2. The applications are disposed of.

CM(M) 511/2017

1. This petition has been filed under Article 227 of the Constitution of India praying for setting aside of the order dated 4th March, 2017 passed by learned ADJ in Case No.CIV DJ/611263/2016, for allowing the application of the petitioner for not beginning the evidence in the suit and deferring the cross-examination of the respondent before the learned Trial Court, till the disposal of SLP.
2. Learned counsel for the petitioner submits that initially prayer made before the learned Trial Court to grant three months time to file SLP before the Supreme Court, was allowed by the Court but despite taking all possible steps, the SLP could not be filed. Hence, further time may be given to the petitioner to file SLP before the High Court and till then proceedings before the learned Trial Court be stayed.

3. Vide order dated 4th March 2017, learned ADJ passed the following order:

“CivDJ/611263/2016
Sant Kaur Vs. Manjeet Singh

04.03.2017

Present: Sh. Puneet Aggarwa & Sh. R.P. Singh, Ld. Counsels for the plaintiff alongwith plaintiff in person.
Sh. M.A. Ansari and Mohmad Imtiyaz, Ld. Counsels for the defendant alongwith Defendant in person.

Ld. Counsel for the defendant filed an application under Section 151 CPC submitting that this court dismissed the application filed by applicant for impleading him as party in the present suit and order dated 27.01.2017 was taken in appeal in CM(M) which was dismissed by Hon'ble High Court of Delhi vide order dated 03.03.2017 and it is further submitted that applicant wants to file SLP and further submitted that evidence may not be started and seeks time for three months. Highly opposed by Ld. Counsel for the plaintiff submitting that the plaintiff is a senior citizen and affidavit in evidence has already been filed on 26.04.2016 and defendant wants to linger on the case.

Heard. Record perused. This is court is of opinion that no prejudice would be caused to the defendant if affidavit in evidence of PW1 is tendered and cross-examination is deferred. Let the affidavit of PW-1 be tendered in evidence and cross-examination be deferred.

Accordingly, application filed by defendant is disposed of.

It is further submitted by Ld. Counsel for the defendant that list of witnesses has not been filed by plaintiff and he has not received the copy of the same. On the other hand, it is submitted by Ld. Counsel for the plaintiff that the same has already been filed on 26.04.2016 and copy has already been supplied. It is further submitted by Ld. Counsel for the defendant that list of witnesses filed by plaintiff cannot be taken on record.

Heard. As the procedural law is handmaid of justice, list of witnesses filed by plaintiff is taken on record. Copy supplied to Ld. Counsel for the defendant.

Affidavit of witnesses PW-2, PW-3 and PW-4 filed by Ld. Counsel for the plaintiff. Copy supplied to Ld. Counsel for the defendant.

PW-1 Smt. Sant Kaur, is examined in chief and her cross-examination is deferred.

Ld. Counsel for the defendant also filed another application under Section 151 for correction of para 14 of order dated 27.01.2017.

Heard. Put up for orders on the application on 09.03.2017 and put up for cross-examination of PW-1/RPE on 12.05.2017.

Copy of this order be given Dasti to Ld. Counsel for the defendant as prayed for.

*Sd/-
ADJ-05/West/THC/Delhi
04.03.2017”*

4. Since no adverse order has been passed against the petitioner, rather the learned Trial Court has given reasonable time to the petitioner by deferring the cross-examination of PW-1, Smt.Sant Kaur, the impugned order does not warrant any interference by this Court. Even otherwise also, the proceedings before the learned Trial Court cannot be stayed till the disposal of the SLP, which is yet to be filed by the petitioner.

5. The petition is dismissed.

CM No.17254/2017 (stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 05, 2017/ 'hkaur'