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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 550/2017 & CM No.28959/2017 (of the petitioner for early hearing)

TIRUPATI ALKALIES PVT LTD Petitioner

Through: Mr. Rohit Goel, Adv.

Versus

VINOD TRIVEDI Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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16.08.2017

1. This petition under Article 227 of the Constitution of India impugns the order [dated 27th April, 2017 in Civil Suit No.7995/2016 of the Court of Additional District Judge (ADJ)-01, West District, Tis Hazari Courts, Delhi] of dismissal of applications under Order XII Rule 6 of the CPC and under Order VIII Rule 1A(3) of the CPC.
2. The petition was entertained and notice thereof ordered to be issued for 25th July, 2017.
3. The matter could not be taken up on 25th July, 2017 owing to paucity of time and has been adjourned to 6th February, 2018.
4. CM No.28959/2017 has been filed for early hearing on the ground that the matter is listed today before the Trial Court and has been adjourned to 9th September, 2017.
5. The learned ADJ, vide the impugned order, after dismissing the applications, posted the suit for evidence of the petitioner / defendant on 3rd May, 2017.

6. I have enquired from the counsel for the petitioner / defendant the proceedings of 3rd May, 2017 and thereafter. The counsel for the petitioner / defendant states that adjournments are being taken till now owing to the pendency of this petition.

7. This petition though was accompanied with an application for interim stay, no interim stay was granted of stay of proceedings before the Trial Court while issuing notice thereof. The meaning of refusal of stay is that petitioner / defendant is not to take adjournment before the Trial Court on account of pendency of this petition. However it is found that inspite of this Court having not granted stay of proceedings before the Trial Court, the parties continue to seek adjournment before the Trial Court on account of pendency of petitions before this Court and which conduct has in the order dated 26th July, 2017 in CM(M) No.624/2017 titled ***Ramakant Kaushik Vs. Pawan Sharma*** and in the order dated 8th August, 2017 in CM(M) No.474/2017 titled ***Vinay Kumar Vs. Bijay Kumar*** been held to be contumacious.

8. The petitioner / defendant is found to have indulged in the same conduct and this petition is liable to be dismissed on that ground alone.

9. Be that as it may, the counsel for the petitioner / defendant has been asked to argue the petition today itself.

10. CM No.28959/2017 is allowed in terms thereof.

11. The counsel for the petitioner / defendant has contended that “he is only seeking one more opportunity to prove the documents which were sought to be filed at the stage of petitioner/defendant’s evidence and the suit was pending in mediation for 7/8 years.”

12. The learned ADJ, in the impugned order, has observed that the suit is of the year 1996.

13. The National Court Management System Committee of the Supreme Court and the State Court Management System Committee of this Court have issued directions for disposal of suits over ten years old in time bound manner. Such directions cannot be expected to be abided by the Trial Courts if this Court, in the name of “indulgence” and “in the interest of justice” continues to interfere with the orders of the Trial Court refusing to grant opportunities for which sufficient time had already been availed and which are otherwise justified on merits.

14. The learned ADJ in the impugned order also has observed that no reason had been given for not filing the documents, all of which were of dates prior to the institution or shortly after the institution of the suit.

15. The only reason given by the counsel for the petitioner / defendant was of blaming the earlier lawyer and the counsel for the petitioner / defendant today also raises the same arguments.

16. The said grounds cannot be permitted to be taken any longer when litigants are not illiterate persons but are corporates and are spending substantial amount of monies in litigation and have deputed officials to pursue the litigation. An advocate, as has been held by me recently in order dated 25th July, 2017 in CM(M) No.768/2017 titled ***Bimla Vs. Sirajuddin***, remains an agent of the litigant and no unlimited indulgence can be granted on such account.

17. No error is thus found in the reasoning given by the learned ADJ. Allowing the petitioner / defendant to at this stage introduce new documents

would also result in granting an opportunity to the respondent / plaintiff to lead further evidence, thereby endlessly delaying the trial.

18. Though the counsel for the petitioner / defendant has not argued anything with respect to the dismissal of the application under Order XII Rule 6 of the CPC but the dismissal of the suit sought on the basis of cross-examination of the respondent / plaintiff has also been rightly declined by the learned ADJ.

19. In fact, the counsel for the petitioner / defendant states that he is not even challenging the dismissal of the application under Order XII Rule 6 of the CPC.

20. No ground for interference in exercise of powers under Article 227 of the Constitution of India is made out.

Dismissed.

No costs.

21. The date of 6th February, 2018 earlier given is cancelled.

RAJIV SAHAI ENDLAW, J.

AUGUST 16, 2017

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