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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 625/2017 & CM No.21079/2017 (for stay)
PAWAN KATARIA Petitioner
Through: Mr. Ajay Paul & Mr. Abhishek
Kukkar, Advs.
Versus
ARDEEP KUMAR BATTA & ANR Respondents
Through: Mr. Rajeev Sharma, Adv.
CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **17.08.2017**

1. This order is in continuation of the earlier order dated 9th August, 2017.
2. Though the counsel for the petitioner / defendant did not take any steps for service of the notice ordered to be issued to the respondents / plaintiffs but the counsel for the respondents / plaintiffs appears and states that even paper book has not been supplied.
3. The counsel for the petitioner / defendant states that paper book was sent by e-mail.
4. However on enquiry whether he has ever seen the counsel for the respondents working with laptop computer or iPad, the answer is in the negative. That being the position, the non-supply of paper book and the statement today that the paper book will be supplied during the course of the day by having the counsel's own copy copied is nothing but dilatory tactics.
5. The counsel for the respondents / plaintiffs has opposed the grant of any further opportunity to the petitioner / defendant to lead evidence stating

that sufficient opportunity has already been availed. He states that even otherwise, the defence of the petitioner / defendant to the suit filed by the respondents / plaintiffs is fallacious and in fact the suit of the respondents / plaintiffs is entitled to be decreed forthwith.

6. It is explained that the respondents / plaintiffs have instituted the suit for mandatory injunction directing the petitioner / defendant to vacate the residential flat at Pitam Pura; the defence of the petitioner / defendant is of the respondents / plaintiffs having agreed to sell the said flat to the petitioner / defendant and alleging which contract, a suit for specific performance of the Agreement to Sell has been filed and which is pending adjudication and on ground of consolidation wherewith the evidence was not led by the petitioner / defendant on a number of occasions in the suit from which this petition arises. It is contended that even if the plea of the Agreement to Sell is to be believed, the petitioner / defendant would be entitled to possession only after obtaining a decree for specific performance of the Agreement to Sell and after obtaining a Conveyance Deed in his favour and not till then.

7. Merit is found in the contention of the counsel for the respondents / plaintiffs.

8. The respondents / plaintiffs closed their evidence in the suit on 5th February, 2016 and the suit was adjourned for evidence of the petitioner / defendant to 23rd March, 2016 when the petitioner / defendant took adjournment on the ground of having approached the District Judge for consolidation of the subject suit with the suit for specific performance. The suit was adjourned to 1st April, 2016 when again adjournment was sought by the petitioner on the same ground. The learned District Judge vide order

dated 1st April, 2016 transferred the subject suit to the Court where the suit for specific performance was pending. The petitioner / defendant when appeared before the transferred Court on 4th April, 2016 was given date of 20th July, 2016 for leading his evidence. On 20th July, 2016, since neither any witness of the petitioner / defendant was present nor any affidavit by way of examination-in-chief had been filed, the evidence of the petitioner / defendant was closed and the suit posted to 19th September, 2016 for final arguments.

9. The petitioner / defendant filed an application under Section 151 CPC on 19th September, 2016 for adjournment of the final arguments owing whereto the final arguments are not being heard.

10. This petition impugning the order dated 20th July, 2016 closing right to lead evidence of petitioner / defendant was filed for the first time only on 27th May, 2017 and is also barred by laches, acquiescence and waiver.

11. The suit from which this petition arises is stated to be of 2010 vintage i.e. it is already 17 years old. The petitioner / defendant is found to have used every trick in his hat for delaying the disposal of the suit. The Supreme Court and this Court in exercise of administrative power have been endeavouring to have such old suits disposed of at the earliest and if in the name of 'interest of justice', this Court continues to grant indulgence notwithstanding the litigants having not done the task, which they were required to do, within the prescribed time and having abused the process of the Court, this Court would be sending mixed signals to the Judicial Officers and which would result in further delay in disposal of the suits.

12. The petitioner / defendant is not found entitled to any relief.
13. The petition is dismissed.
14. The counsel for the respondent / plaintiff states that though the learned ADJ had reserved order on the application under Section 151 CPC supra more than one year back but has not pronounced the same till now and owing whereto the hearing of final arguments in the suit has also been held up. The next date before the learned ADJ-II, District North-West, Rohini Courts, Delhi is informed to be 21st August, 2017.
15. A copy of this order be placed before the learned ADJ who is requested to proceed with the suit as expeditiously as possible and keeping in view the vintage of the suit.

RAJIV SAHAI ENDLAW, J

AUGUST 17, 2017

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