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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1181/2016 & CM No.42925/2016 (for stay)
J K PANGASA Petitioner

Through: Mr. D.L. Dhingra, Adv.

Versus

HARISH KUMAR PANGASA & ORS Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.07.2017**

1. This petition under Article 227 of the Constitution of India impugns the order (dated 29th September, 2016 in Civil Suit No.1/2016 (10830/2016) of the Court of Additional District Judge (ADJ)-06, Central District, Tis Hazari Courts, Delhi) of dismissal of the application of the petitioner / defendant no.2 under Order VII Rule 11 of the CPC.
2. Though the petition came up first before this Court on 21st November, 2016 but was adjourned on as many as five occasions on the request of the counsel for the petitioner / defendant no.2.
3. On the last date i.e. 11th July, 2017, it was made clear that no further adjournment shall be granted.
4. Though the petitioner seeks rejection of the plaint but has not placed the plaint before this Court.
5. The counsel for the petitioner / defendant no.2 on being asked, again seeks adjournment.
6. Such conduct cannot be permitted.

7. Even otherwise, against an order of dismissal of an application under Order VII Rule 11 of the CPC, a revision petition lies and once the remedy under the CPC is available, the petitioner / defendant no.2 cannot be permitted to invoke Article 227 of the Constitution of India. Reference in this regard can be made to *Sadhana Lodh Vs. National Insurance Co. Ltd.* (2003) 3 SCC 524.

8. Instead of adjourning the matter, the petition is rejected as not maintainable, with liberty to the petitioner / defendant no.2 to avail appropriate remedies.

RAJIV SAHAI ENDLAW, J

JULY 24, 2017
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