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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 763/2017 & CM No.25888/2017 (for stay)**
JAGMOHAN SHARMA & ANR Petitioners
Through: Mr. Sachin Chandra & Ms. Poonam
Saha, Advs.
Versus
RAVINDRA KUMAR SHARMA & ORS Respondents
Through: None.
CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **24.07.2017**

CM Nos.25889-90/2017 (both for exemptions)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

CM(M) 763/2017 & CM No.25888/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the orders dated 27th October, 2016 and 18th April, 2017 in Civil Suit No.411/2014 of the Court of the Civil Judge-06, West, Tis Hazari Courts, Delhi.
4. Vide the order dated 27th October, 2016 the learned Civil Judge called for the concerned Director of the Delhi Development Authority (DDA) to disclose the basis on which documents were executed in the sole name of the petitioner No.1 / defendant no.2.
5. The official from the DDA appeared before the Civil Judge on 18th April, 2017 and produced the documents and the Civil Judge thereafter

posted the suit for 19th July, 2017 “for consideration on the issue whether the issues of jurisdiction and limitation are to be treated as preliminary and decided first”.

6. The petitioners / defendant no.2&3 having not challenged the order dated 27th October, 2016 within reasonable time and having allowed it to be implemented on 18th April, 2017, cannot now be heard to complain thereagainst.

7. In fact, the counsel for the petitioners / defendant no.2&3 has not raised any argument challenging the order. All that the counsel for the petitioners / defendant no.2&3 contends is that the learned Civil Judge is not considering the request of the petitioners/defendant no.2&3 for treating the issues already framed of jurisdiction and limitation as preliminary issues.

8. I have enquired from the counsel for the petitioners/defendant no.2&3 as to what happened before the Civil Judge on 19th July, 2017.

9. Though no copy of the order is available but the counsel for the petitioners/defendant no.2&3 states that the matter has been adjourned to 29th August, 2017 for consideration of the application under Order XII Rule 6 of the CPC and the request of the petitioners/defendant no.2&3 for treating the issues as preliminary issues has still not been considered.

10. This Court cannot interfere with the said aspect without the copy of the order dated 19th July, 2017 being before the Court.

11. Suffice it is to state that it is for the counsel for the petitioners/defendant no.2&3 to make arguments before the learned Civil Judge in this respect and if aggrieved, to take remedies.

12. No ground for interference with the orders impugned is made out.
13. At this stage, the counsel for the petitioners/defendant no.2&3 withdraws the petition to move an application before the Civil Judge.

Dismissed as not pressed.

Dasti.

RAJIV SAHAI ENDLAW, J.

JULY 24, 2017

‘gsr’..