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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.801/2017, CM No.27008/2017, CM No.31562/2017 (of the petitioner under Section 151 CPC) & CM No.31563/2017 (for exemption).

MANISHA

..... Petitioner

Through: Mr. Vivek Sharma, Adv.

versus

JAI PRAKASH GUPTA

..... Respondent

Through: Mr. Navjot Kwatra and Mr. Deepak Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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30.08.2017

1. This order is in continuation of the earlier order dated 31st July, 2017.
2. The counsel for the petitioner / defendant no.2 has since filed the order sheets in the suit with effect from the date of framing of issues and which have been perused.
3. The counsel for the respondent / plaintiff also appears.
4. The counsels have been heard.
5. The position which emerges is that the issues were framed in the suit as far back as on 4th January, 2014, since when the suit is pending for cross-examination by the petitioner / defendant no.2 of two witnesses of the respondent / plaintiff. Though on perusal of the order sheets it is found that the petitioner / defendant no.2 has availed of two adjournments for the purposes of cross-examination but otherwise the entire order sheet is of delay caused by the petitioner / defendant no.2. There was an interim order in the suit under Order 15A of the Code of Civil Procedure, 1908 (CPC) as applicable to Delhi and / or under Order XXXIX Rule 10 of the CPC,

directing the petitioner / defendant no.2 to during the pendency of the suit deposit a sum of Rs.10,000/- per month as arrears of rent w.e.f. 1st November, 2012 and use and occupation charges of the premises, for recovery of possession whereof the respondent / plaintiff has sued. The petitioner / defendant no.2 committed repeated defaults of the said order and which resulted in the suit remaining pending for nearly three years at the stage of cross-examination by the petitioner / defendant no.2 of the two witnesses of the respondent / plaintiff. Applications had to be repeatedly filed owing to non-compliance by the petitioner / defendant no.2 of the order dated 13th January, 2015 directing the petitioner / defendant no.2 to pay arrears or rent and monthly rent / occupation charges and for the reason whereof the defence of the petitioner / defendant no.2 having been struck off and which order though was set aside by this Court but whereafter also there has been default on the part of the petitioner / defendant no.2.

6. The conduct of the petitioner / defendant no.2 does not entitle the petitioner / defendant no.2 to any indulgence especially since the valuable immovable property of the respondent / plaintiff is held up owing to the long duration for which the suit has remained pending.

7. There is no merit in the petition.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 30, 2017

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