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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 891/2017

IQBAL AHMED

..... Petitioner

Through: Ms. Fizani Husain, Adv.

Versus

MOHD HANIF NAQSH QURESHI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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21.08.2017

CM No.29818/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 891/2017 & CM No.29819/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order (dated 24th April, 2014 in Civil Suit No.198/2013 of the Court of Civil Judge-03, Central District, Tis Hazari Courts, Delhi) on an application filed by the respondent / plaintiff under Order XXXIX Rules 1&2 of the Code of Civil Procedure, 1908 (CPC).
4. Not only is the petition barred by laches, delay, acquiescence by over three years but even otherwise, the order is appealable under Order XLIII Rule 1(r) of the CPC.
5. It has been held in *Sadhana Lodh Vs. National Insurance Co. Ltd.* 2003 (3) SCC 524 that jurisdiction under Article 227 of the Constitution of India cannot be exercised where remedy under the CPC is available.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGUST 21, 2017/‘gsr’