

\$~36.

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CM(M) No.989/2017& CM No.33023/2017 (for stay).  
BABU LAL NAGAR ..... Petitioner  
Through: Mr. Triloki Nath, Adv.  
versus  
S BHUPINDER SINGH ..... Respondent  
Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **11.09.2017**

1. This petition under Article 227 of the Constitution of India impugns the orders dated 21<sup>st</sup> September, 2016 and 26<sup>th</sup> October, 2016 in Suit No.19/13 (New Suit No.99680/16) of the Court of Civil Judge-08, Central, Tis Hazari Courts, Delhi.
2. Vide impugned order dated 21<sup>st</sup> September, 2016, the application of the petitioner / defendant for rejection of irrelevant and inadmissible documents mentioned by the respondent / plaintiff in the affidavit by way of examination-in-chief of PW-1 was dismissed and the matter was posted on 26<sup>th</sup> October, 2016 for tendering of the affidavit by way of examination-in-chief of the respondent / plaintiff in evidence and for cross-examination of the respondent / plaintiff by the petitioner / defendant.
3. On 26<sup>th</sup> October, 2016, the counsel for the petitioner / defendant did not even appear before the Suit Court and resultantly PW-1 was examined and discharged and the suit posted on 7<sup>th</sup> December, 2016 for further evidence of the respondent / plaintiff.
4. The petitioner / defendant has not filed the copy of the order dated 7<sup>th</sup> December, 2016 or of any subsequent orders in the suit. The counsel for the

petitioner / defendant on enquiry states that on 7<sup>th</sup> December, 2016, the respondent / plaintiff had filed an application for leading additional evidence.

5. Once the suit was posted on 7<sup>th</sup> December, 2016 for further evidence of the respondent / plaintiff, it is incomprehensible why the respondent / plaintiff would make an application for additional evidence; rather, what appears is that the counsel for the petitioner / defendant has not been appearing in the suit and to get over own defaults has now filed this petition after nearly one year from the orders.

6. The petition is also liable to be dismissed on account of laches, acquiescence, waiver.

7. Even otherwise, it is settled position in law and also prescribed in Order XVIII Rule 4 of the Code of Civil Procedure, 1908 (CPC) that all objections taken during the course of recording of evidence are to be adjudicated at the stage of final arguments and the recording of evidence is not to be interrupted.

8. Though the order dated 21<sup>st</sup> September, 2016 is of rejection of the argument of the counsel for the petitioner / defendant as to the relevancy of the documents but neither has the counsel for the petitioner / defendant filed the order framing the issues nor is able to tell about the same. It is not understandable as to how the challenge to an order qua relevancy is made without even knowing the issues. There is no merit in the petition.

9. Though the counsel for the petitioner / defendant at page 17 of this petition has made allegations against the Presiding Judge of the Suit Court and the manner in which the proceedings in the suit are being conducted but

no credence can be given to the said allegations in view of what is recorded above.

10. Dismissed.

**RAJIV SAHAI ENDLAW, J**

**SEPTEMBER 11, 2017**  
'pp'..

*CM(M) No.989/2017*

*page 3 of 3*