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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 970/2017 & CM No.32436/2017 (for stay)
MRIGANKA MOHAN CHANDA Petitioner
Through: Mr. Rajender Kumar, Adv.
Versus
STATE BANK OF INDIA & ORS Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **06.09.2017**

1. This petition under Article 227 of the Constitution of India impugns the order [dated 1st June, 2017 in CivDJ/608269/2016 of the Court of Additional District Judge-05 (ADJ), West District, Tis Hazari Courts, Delhi] on an application of the respondent no.1 / plaintiff under Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908 (CPC) and attaching the benefits of the petitioner in the form of gratuity etc. due to the petitioner from respondent no.3 Niti Aayog.
2. The order is appealable under Order XLIII Rule 1(q) of the CPC and it is settled position in law (See *Sadhana Lodh Vs. National Insurance Co. Ltd.* (2003) 3 SCC 524) once the remedy under CPC is available, the petition under Article 227 of the Constitution of India does not lie.
3. The Roster of this Court also does not permit hearing of an appeal under Order XLIII Rule 1(q) of the CPC.

4. I may clarify that though the appeal under the provision aforesaid is provided with respect to Rule 6 but the order of attachment in pursuance to an application under Order XXXVIII Rule 5 of the CPC is made under Rule 6 only.

5. The petition is misconceived and is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 06, 2017

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