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

+ CM(M) 927/2017

PREM LATA & ORS

..... Petitioners

Through: Ms. Monica Kapoor, Adv.

Versus

KUWAR PAL (DECEASED) & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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28.08.2017

CMs No.31125/2017 & 31126/2017 (both for exemption)

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

CM(M) 927/2017 & CM No.31124/2017 (for stay)

3. This petition under Article 227 of the Constitution of India Impugns the order [dated 4th July, 2017 in E No.707/14/05 (New No.78416/16) of the Court of Additional Rent Controller (ARC)-2 (Central), Tis Hazari Courts, Delhi] of dismissal of the applications of the petitioners, under Order XI Rules 1&2 of the Code of Civil Procedure, 1908 (CPC); and, under Order XVIII Rule 17 of CPC for recall of PW2 for further cross-examination.
4. The learned ARC in the impugned order has given detailed reasons for dismissal of the application and which show the neglect and dilatory tactics adopted by the petitioners with respect to a petition for eviction filed

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by the respondent on the ground of requirement of the premises in occupation of the petitioner for the own use of the respondent. The learned ARC in the impugned order has also noticed that the petition for eviction was filed as far back as in March, 2005 and had already been pending for 12 years.

5. Qua the challenge to the application under Order XVIII Rule 17 of CPC, suffice it is to state that though the right of the petitioner to cross-examine PW2 was closed as far back as on 5th June, 2013 but the application under Order XVIII Rule 17 of CPC was filed only after three years, in May, 2016.

6. The counsel for the petitioners has argued that the petitioners were represented by N.C. Gupta & Co. Advocates; that Mr. Brijesh Johar, Advocate from N.C. Gupta & Co. was attending to the said case; that Mr. Brijesh Johar, Advocate left N.C. Gupta & Co. Advocates prior to 5th June, 2013 and set up his own practice; that thereafter none from N.C. Gupta & Co. Advocates followed up the case; it is only when the petitioners, in or about 2015 again engaged Mr. Brijesh Johar, Advocate, when the applications aforesaid were filed.

7. A perusal of the order sheet dated 5th June, 2013 shows proxy counsel to have appeared for Mr. Brijesh Johar, Advocate. The counsel for the petitioners on enquiry states that the said proxy counsel was from the office of N.C. Gupta & Co. It is thus not as if, N.C. Gupta & Co., after Mr. Brijesh Johar, Advocate had left, had no idea of the case or that the said case went out of the horizon of N.C. Gupta & Co. There is also no explanation as to why the petitioners did not contact N.C. Gupta & Co. Advocates or did not

follow up the case. Merely by blaming earlier advocate and who is not even given the opportunity to defend the allegations against him, the opposite party to the litigation, cannot be made to suffer.

8. Similarly, the application under Order XI Rules 1&2 of CPC for a direction to the respondents to answer interrogatories, after the petitioners have had a chance to cross-examine the respondents has been rightly dismissed.

9. The filing of the applications and this petition is nothing but an attempt to delay the disposal of the petition for eviction which, as per the administrative directions of the National Court Management Systems Committee of the Supreme Court and the State Court Management System Committee of this Court, has to be disposed of expeditiously. If on the Judicial Side, the steps taken by the Judicial Officer to comply with the administrative directions are set aside, the same will amount to sending mixed-signals to the Judicial Officer resulting in target of disposal of all more than ten years old cases prior to 31st December, 2017 not being achieved.

10. There is no merit in the petition.

11. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGUST 28, 2017

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