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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CM(M) 1043/2017**  
**THE CHURCH OF REDEMPTION & ANR** ..... Petitioners  
Through: Smt. June Chaudhari, Sr. Adv. with  
Ms. Sumeeta Chaudhari, Adv.  
Versus  
**RAYMOND LAL PATRAS & ORS** ..... Respondents  
Through: None.  
**CORAM:**  
**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**  
**ORDER**  
% **19.09.2017**

**CM No.34355/2017 (for exemption)**

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

**CM(M) No.1043/2017**

3. This petition under Article 227 of the Constitution of India seeks a direction to the Court of Additional District Judge-01 (ADJ), New Delhi District, Patiala House Courts, New Delhi to pass orders on the application filed by the petitioners / plaintiffs under Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC) in CS No.56502/2016.
4. A perusal of the order dated 11<sup>th</sup> April, 2017 in the suit from which this petition arises, shows the suit to have been adjourned to 11<sup>th</sup> October, 2017 for hearing of arguments on the application filed by the respondents / defendants under Order VI Rule 17 of the CPC and under Order VIII Rule 1A of the CPC.

5. The senior counsel for the petitioners / plaintiffs has drawn attention to the order dated 2<sup>nd</sup> March, 2017 in the suit posting the suit on 11<sup>th</sup> April, 2017 for orders on the application of the petitioners / plaintiffs under Order XII Rule 6 of the CPC and has contended that the learned ADJ, instead of pronouncing orders on the application under Order XII Rule 6 of the CPC, has entertained the applications of the respondents / defendants under Order VI Rule 17 and under Order VIII Rule 1A of the CPC. It is argued that the petitioners / plaintiffs have instituted the suit from which this petition arises, for mandatory injunction for removal of the respondents / defendants from immovable property and the respondents / defendants faced with the likely decree on the application under Order XII Rule 6 of the CPC, filed the application under Order VI Rule 17 and under Order VIII Rule 1A of the CPC only to delay the passing of the decree.

6. As per my understanding, the application for amendment of pleadings, if filed before the decision on an application under Order VII Rule 11 of the CPC or under Order XII Rule 6 of the CPC, has to be dealt with first. If the orders on the application under Order XII Rule 6 of the CPC were not ready by 11<sup>th</sup> April, 2017, no error is found in the order dated 11<sup>th</sup> April, 2017 taking up the applications under Order VI Rule 17 and under Order VIII Rule 1A of the CPC. It was so held by a Division Bench of which I was a member, in *Anita Kumari Gupta Vs. Ved Bhushan* 2014 SCC OnLine Del 2895 and also in *Gurumayum Prahlad Sharma Vs. Hidangmayum Gokulananda Sharma* MANU/GH/0111/1962 and *Gaganmal Ramchand Vs. The Hongkong & Shanghai Banking Corporation* AIR 1950 Bom 345.

7. As far as the grievance of the petitioners / plaintiffs, of the dilatory tactics being practiced by the respondents / defendants, is concerned, the same are taken care of by requesting the learned ADJ to, on 11<sup>th</sup> October, 2017, after hearing arguments on the applications under Order VI Rule 17 of the CPC and under Order VIII Rule 1A of the CPC and if not finding any merit therein, proceed to pronounce the orders on the application under Order XII Rule 6 of the CPC by seeking any further clarification if any required.

8. The learned ADJ is also requested to ensure that the respondents / defendants do not abuse the process of the Court by adopting dialatory tactics.

9. With the aforesaid, the petition is disposed of.

**RAJIV SAHAI ENDLAW, J.**

**SEPTEMBER 19, 2017**

‘gsr’..