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

+ **CM(M) 1100/2017**

SURESH KUMAR

..... Petitioner

Through: Mr. M. Sufian Siddiqui, Mr. Rakesh
Bhugra & Mr. M. Tabishzia, Advs.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Archana Gaur & Ms. Ridhima
Gaur, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.09.2017

CM Nos.35913-14/2017 (both for exemptions)

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

CM(M) 1100/2017 & CM No.35912/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the orders [dated 13th July, 2017 and 6th September, 2017 in CSDJ/9949/16 of the Court of Additional District Judge (ADJ)-14, Central District, Tis Hazari Courts, Delhi] allowing the application of the respondents / defendants no.1&2 under Order VI Rule 17 of the CPC and dismissing the application filed by the petitioner / plaintiff for review of the said order allowing the amendment.

4. The suit from which this petition arises has been filed by the petitioner / plaintiff for declaration, that after the death of Sh. Sanwaliya, the

petitioner / plaintiff has become entitled for substitution and transfer of ownership rights of Shop No.203, INA Market, New Delhi and for mandatory injunction directing the respondents / defendants to carry out substitution and transfer of ownership rights in favour of the petitioner / plaintiff.

5. The counsel for the respondents / defendants appears on advance notice.

6. On hearing the counsels, it appears that the father of the petitioner / plaintiff was a licensee under the respondents / defendants of the subject shop. The amendment which has been allowed is to take the plea of the respondents / defendants having terminated the said license of the father of the petitioner / plaintiff.

7. I have enquired from the counsel for the petitioner / plaintiff as to what is the right of the petitioner / plaintiff to remain in possession of the subject shop when it was merely a license and the license is claimed to have been terminated.

8. The counsel for the petitioner / plaintiff has during the hearing handed over a copy of the Office Order dated 21st February, 1976 of the respondent no.2 Directorate of Estates, Nirman Bhawan, New Delhi but as per which also the claim of the petitioner / plaintiff can at best be for substitution as a licensee in place of his father. Once the respondents / defendants have terminated the license, it is not understood as to what is the right of the petitioner / plaintiff to continue in possession and what purpose the suit from which this petition arises will serve.

9. The learned ADJ before whom the suit is pending is requested to look into the said aspect and after hearing the counsels, pass appropriate orders. Every suit is not to be put through the rigmarole of the entire procedure for disposal of suits. If it were to be found that on the admitted facts, the petitioner / plaintiff has no rights and the grant of the reliefs sought will not serve any purpose, certainly the procedure can be modified accordingly.

10. As far as the challenge to the impugned order is concerned, though no merit is found therein but the counsel for the petitioner / plaintiff also withdraws the petition.

11. Dismissed as withdrawn with a request to the learned ADJ to consider the matter in the aforesaid perspective.

12. At this stage, the counsel for the petitioner / plaintiff wants the petition to be decided on merits.

13. The learned ADJ, vide the impugned order has allowed the amendment post commencement of trial reasoning that the respondents / defendants are government departments and there are delays in movement of files and the initial application though wrongly titled as under Section 151 CPC and not under Order VI Rule 17 of the CPC was filed as early as on 2nd September, 2009.

14. It is not as if the proviso to Order VI Rule 17 of the CPC bars all amendments post commencement of trial. The reasons given by the learned ADJ for permitting the amendment are cogent and cannot be said to be perverse, more so in the context as aforesaid noticed, for interference under Article 227 of the Constitution of India.

15. It is also found that the suit is more than 10 years old and in accordance with the direction of the State Court Management Systems Committee of this Court be decided in any case on or before 31st December, 2017.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 27, 2017

‘gsr’..