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

+ CM(M) 1111/2017

LORD BUILDER PVT LTD & ORS Petitioners
Through: Mr. Rajesh Aggarwal, Adv.

Versus

PRAKSH JUSROY & SONS & ORS Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **10.10.2017**

CM No.36288/2017 (for exemption)

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

CM(M) 1111/2017 & CM No.36287/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns (i) the order [dated 10th August, 2017 in Suit No.18399/2016 of the Court of Additional District Judge (ADJ) (Central), Tis Hazari Courts, Delhi] of dismissal of an application filed by the petitioners/plaintiffs to lead additional evidence to prove order dated 11th July, 2014 in another legal proceeding; and, (ii) the order dated 4th September, 2017 of dismissal of the application filed by the petitioner/plaintiff for review of the order dated 10th August, 2017.

4. The suit from which this petition arises is more than ten years old and the petitioners/plaintiffs themselves have been dragging their feet in the suit.

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Even on 10th August, 2017, adjournment was sought on behalf of the petitioners/plaintiffs to argue the application; in fact the counsel for the petitioners/plaintiffs did not even choose to appear and sent a proxy counsel.

5. The jurisdiction under Article 227 of the Constitution of India cannot be invoked by the advocates who have not availed of the opportunity to diligently pursue their case in the Lower Court to thereafter approach this Court.

6. The learned ADJ has in the order dated 10th August, 2017 noted that the evidence of the petitioners/plaintiffs was closed as far back as on 30th April, 2014 and the application to lead additional evidence with respect to the order dated 11th July, 2014 in another proceeding was filed only on 5th November, 2015 and there was no explanation for the delay of nearly one and a half years from 11th July, 2014 in filing the application.

7. No error can thus be found with the orders impugned. The suits cannot be kept pending by the petitioners/plaintiffs themselves failing to take steps required to be taken and by repeatedly invoking the jurisdiction under Article 227 of the Constitution of India.

8. Dismissed.

9. The suit, after dismissal of the application on 10th August, 2017 was posted for final arguments on 4th September, 2017. The order dated 4th September, 2017 of dismissal of the application for review also records that part final arguments in the suit had been heard and the suit had been adjourned for remaining final arguments to 7th October, 2017.

10. However, the counsel for the petitioners/plaintiffs states that further final arguments were not heard on 7th October, 2017 but he does not know

what is the next date in the suit. It is quite possible that judgment already stands reserved in the suit.

11. Be that as it may, if any further arguments remain to be addressed, liberty is granted to the counsel for the petitioners/plaintiffs to, in the course of the said arguments, argue that notwithstanding the orders impugned in this petition and this order, the certified copy of the order dated 11th July, 2014 in another legal proceeding can be read in the subject proceedings.

RAJIV SAHAI ENDLAW, J.

OCTOBER 10, 2017

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