

\$~51

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

+ **CM(M) 1195/2017**

KRISHNA KARANWAL

..... Petitioner

Through: Mr. A.K. Singla, Sr. Adv. with Mr.
Rahul Shukla & Mr. Susheel Tripathi,
Advs.

Versus

POONAM AHLUWALIA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

30.10.2017

CM No.38667/2017 (for exemption)

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

CM(M) 1195/2017 & CM No.38666/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 4th September, 2017 in CS No.7745/2016 of the Court of Additional District Judge-01 (ADJ), South District, Saket Courts, New Delhi] of dismissal of the application filed by the petitioner / defendant under Order XII Rule 6 read with Order XV Rules 1&2 of the Code of Civil Procedure, 1908 (CPC) without giving any reason.
4. Not only the provision of law invoked by the petitioner / defendant in filing this petition is wrong, inasmuch as for the grievance urged, the remedy is under Section 115 of the CPC and not under Article 227 of the Constitution of India but even otherwise, the petition is intended to harm the petitioner herself. The petitioner wants to invite the heirs of the husband of

her deceased sister, for partition of whose property the suit (from which this petition arises) has been filed by another sister of the petitioner / defendant, to come and challenge the Will set up by the petitioner / defendant of her deceased sister.

5. Upon the senior counsel for the petitioner / defendant being asked to furnish the particulars of the heirs of the deceased sister who would be the natural heirs of the deceased sister and who according to the senior counsel for the petitioner / defendant have not been impleaded, the senior counsel for the petitioner / defendant withdraws the petition.

6. Dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 30, 2017

‘gsr’..