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

+ CM(M) 1215/2017

ICICI BANK LTD

..... Petitioner

Through: Mr. Punit K. Bhalla, Adv.

Versus

JITENDER KUMAR

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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30.10.2017

CM No.38902/2017 (for exemption)

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

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3. This petition under Article 227 of the Constitution of India impugns the order dated 23rd September, 2017 in CS No.1162/2017 of the Court of Additional District Judge-01 (ADJ), Central District, Tis Hazari Courts, Delhi.
4. Though the said order issues summons of the suit filed by the petitioner / plaintiff but records the statement of the counsel for the petitioner / plaintiff that he, at that stage, is not pressing the application under Order XL Rule 1 of the Code of Civil Procedure, 1908 (CPC) filed along with the plaint.
5. It is the contention of the counsel for the petitioner / plaintiff that the learned ADJ passed the impugned order after hearing on several dates and the counsel for the petitioner / plaintiff did not make any statement not pressing the application under Order XL Rule 1 of the CPC.

6. It is further the contention of the counsel for the petitioner / plaintiff that though the petitioner / plaintiff, after 23rd September, 2017, filed an application stating that the counsel for the petitioner / plaintiff had not made any such statement as recorded and seeking *ex parte* appointment of Receiver but the said application has also been kept for consideration on the date for which summons have been issued.

7. The counsel for the petitioner / plaintiff on enquiry states that the counsel for the petitioner / plaintiff has placed before the learned ADJ the order dated 17th July, 2017 in CM(M) No.392/2017 titled ***ICICI Bank Ltd. Vs. Rajender Kumar*** and other several orders following the same.

8. The counsel for the petitioner / plaintiff has also cited the order dated 14th July, 2015 in FAO No.51/2015 titled ***ICICI Bank Ltd. Vs. Rohit Kumar*** and contends that this Court therein also permitted sale of the seized hypothecated asset after a reasonable time. It is contended that the prayer of the petitioner / plaintiff, in a large number of other similar suits, for sale of the seized asset is not being disposed of expeditiously, resulting in the seized asset depreciating in value.

9. The petition is disposed of with a request to the learned ADJ to, within 3 days of production of this order by the counsel for the petitioner / plaintiff before the learned ADJ, pass orders on the application aforesaid under Section 151 of the CPC as well as on the application under Order XL Rule 1 of the CPC.

10. The learned ADJ is also requested to, within one month of service of the respondent / defendant, decide the prayer of the petitioner / plaintiff for sale of the seized asset.

11. The petition is disposed of.

No costs.

Dasti.

RAJIV SAHAI ENDLAW, J

OCTOBER 30, 2017

‘gsr’..