

\$~44

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

+ CM(M) 1265/2017

N.K. AGARWAL

..... Petitioner

Through: Ms. Kadambari & Ms. Sarika Soam,
Advs.

Versus

PRITAM KAUR & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **08.11.2017**

CM Nos.40358-59/2017 (both for exemptions)

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

CM(M) 1265/2017 & CM No.40357/2017 (for stay)

3. The matter has been received post Court commencement hours on listing on urgent mentioning.
4. This petition, under Article 227 of the Constitution of India, impugns the order [dated 16th October, 2017 in CS No.9488/2017 of the Court of Additional District Judge (ADJ), District South, Saket Courts, New Delhi] of dismissal of the application filed by the petitioner / plaintiff under Order VII Rule 14(3) of the Code of Civil Procedure, 1908.
5. The counsel for the petitioner has argued i) that the suit, from which this petition arises, was filed by the petitioner / plaintiff for specific performance of an agreement of sale of immovable property; ii) that the earlier counsel for the petitioner / plaintiff did not advice the petitioner / plaintiff to file and prove before the Court the documents to show the

readiness with the balance sale consideration of the petitioner / plaintiff; iii) that thus the said documents remain to be filed; and, iv) that upon new counsel being engaged by the petitioner / plaintiff, it was so noticed and the application, against dismissal whereof this petition has been filed, was filed.

6. On enquiry, it is informed that the suit, from which this petition arises, was instituted as far back as in the year 1996 and that the application aforesaid was made at the stage when the suit was ripe for final arguments and after the evidence of all the parties to the suit stood concluded.

7. The impugned order, after dismissing the application aforesaid, posts the suit on 13th November, 2017 for final arguments.

8. Considering the length of time for which the suit has remained pending and further considering that any interference at this stage would stall the final arguments in the suit slated for 13th November, 2017 and delay the disposal of the suit beyond nearly 20 years for which the suit has already been pending, option has been given to the counsel for the petitioner / plaintiff to if remains aggrieved from the final outcome of the suit, in the remedy, if any, preferred thereagainst also impugn the order impugned in this petition and on the same grounds as urged in this petition.

9. The said option has been accepted by the counsel for the petitioner / plaintiff.

10. The petition is disposed of with liberty aforesaid.

No costs.

RAJIV SAHAI ENDLAW, J

NOVEMBER 08, 2017

‘gsr’

CM(M) 1265/2017

Page 2 of 2