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

+ CM(M) 1286/2017

S.B. GUPTA (DECEASED) THROUGH LRS Petitioner

Through: Mr. Pawan K. Bahl, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr. Pawan Mathur, Adv.

AND

CM(M) 1287/2017

S.B. GUPTA (DECEASED) THROUGH LRS Petitioner

Through: Mr. Pawan K. Bahl, Adv.

Versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr. Pawan Mathur, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 14.11.2017

CM No.41183/2017 in CM(M) 1287/2017 & CM No.41180/2017 in CM(M) 1286/2017 (both for exemption)

1. Allowed, subject to just exceptions.

2. The applications are disposed of.

CM(M) 1287/2017 & CMs No.41182/2017 (for stay) & 41184/2017 (for condonation of 257 days delay) & CM(M) 1286/2017 & CMs No.41179/2017 (for stay) & 41181/2017 (for condonation of 257 days delay)

3. These petitions, both under Article 227 of the Constitution of India, impugn the common order [dated 28th November, 2016 in CS No.589/2014

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(9157/2016) & CS No.703/2014 (12694/2016) of the Court of Civil Judge-06 (West), Tis Hazari Courts, Delhi] closing the evidence of the petitioners/plaintiffs.

4. The petitioners/plaintiff had thereafter filed applications in the suits for re-opening of their evidence and which applications were dismissed vide orders dated 1st June, 2017.

5. The petitioners/plaintiffs had earlier preferred CM(M) 821/2017 & CM(M) 822/2017 impugning the orders dated 1st June, 2017 and which petitions were dismissed vide order dated 12th October, 2017.

6. I have enquired from the counsel for the petitioners/plaintiffs, as to why this second round of litigation.

7. The counsel for the petitioners/plaintiffs states that in CM(M) 821/2017 & CM(M) 822/2017, challenge was made to the order dated 1st June, 2017 of dismissal of applications for re-opening of evidence and which challenge in order dated 12th October, 2017 was held to be not maintainable in view of the dicta of the Supreme Court in ***Land Acquisition Officer, Andhra Pradesh Vs. Ravi Santosh Reddy*** (2016) 14 SCC 238 and these petitions have been filed impugning the original order dated 28th November, 2016 closing the evidence of the petitioners/plaintiffs.

8. Undoubtedly, so. However, in para 8 of the order dated 12th October, 2017, it was observed that though CM(M) 821/2017 & CM(M) 822/2017 were liable to be dismissed as not maintainable but even otherwise, no merit was found therein and thereafter in paras 9 to 12 of the order dated 12th October, 2017, reasons were given as to why even on merits, the
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petitioners/plaintiffs had no case to challenge the order of closing of their evidence.

9. The counsel for the petitioners/plaintiffs, though not disputing the aforesaid, contends that though the suits were filed in the years 1993 & 1997 but in the suit of 1993, the respondent/defendant filed written statement only on 20th January, 2011.

10. More than six years have elapsed therefrom also.

11. The counsel for the petitioners/plaintiffs has next contended that the affidavits by way of examination-in-chief of one of the plaintiffs was got attested on 22nd March, 2016 but the then advocate for the petitioners/plaintiffs did not place the same on record.

12. Having already dismissed the challenge on merits on 12th October, 2017, it is not open to me to re-hear and re-decide the matters.

13. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 14, 2017

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