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

+ CM(M) 119/2018

YOGESH KOHLI

..... Petitioner

Through: Mr. Sanat Kumar with Mr. Siddharth
Khattar & Mr. Vikas Sharma,
Advocates.

versus

GEETA SANON

..... Respondent

Through: Mr. Siddharth Aggarwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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30.01.2018

CM No.3585/2018 (exemption)

Allowed, subject to all just exceptions.

CM(M) 119/2018 & CM No.3584/2018

1. The petition at hand has been filed by the party that is impleaded as defendant in the suit (CS No.5886/2016) which was instituted by the respondent (the plaintiff). The case is at trial, the evidence being recorded before the Local Commissioner. It appears the learned trial Judge had tried to earlier conclude the proceedings by fixing timelines which were not met. On the request made by one or the other side, the time was extended, lastly by order dated 21.12.2017. The Local Commissioner was under a command to complete the exercise of recording the evidence of both parties by 25.01.2018.

2. There is apparently an error in the order dated 21.12.2017, in that, if the evidence were to be concluded by 25.01.2018, the Local Commissioner could not be expected to submit his report on or before 24.01.2018.

3. Be that as it may, the grievance now urged before this Court by the petition at hand stems from the facts that since evidence could not be concluded within the extended period, the three witnesses, summoned at the instance of the petitioner (defendant), having not produced the requisite record for which the Local Commissioner was constrained to give suitable directions, and adjourned the matter to 02.02.2018, the timeline again could not be met. It is stated that both parties made a joint application on 25.01.2018 seeking enlargement of time but the application was not even taken on record by the Additional District Judge. Copy of the said application has been submitted as Annexure-P8 to the petition.

4. The respondent has also appeared on advance notice and the counsel joins the petitioner in the prayer made in the petition.

5. Without passing any comments or remarks on the averment that the learned Additional District Judge did not even accept the joint application so as to deal with it judicially, the petition is disposed of with the direction that the Additional District Judge will consider the joint prayer of both sides for enlargement of time against the above backdrop where the conclusion of the exercise of recording of evidence of the petitioner (defendant) could not be achieved for reasons beyond the control of the parties inasmuch as it is the witnesses who are stated to have committed default by not coming with the summoned records and further that the respondent as plaintiff is entitled in law to have a complete and effective opportunity to cross-examine the

defendant who has tendered his own testimony and also because the petitioner as defendant is yet to produce the other witnesses whose names were included in the list and whose affidavits are statedly already on record.

6. While it is true that there is a need for expedition, particularly in matters which have become chronic or old, the expedition cannot be done, by putting unrealistic timelines. This Court hopes and trusts that the Additional District Judge will pass a reasoned order on the request jointly made by both the parties seeking enlargement of time taking care at the same time to ensure the effective proceedings continue without let.

7. The petition and the accompanying application are disposed of with these observations.

8. *Dasti* under the signatures of Court Master.

R.K.GAUBA, J

JANUARY 30, 2018

srb