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

Date of Decision: 13.3.2018

+ W.P.(C) 2289/2018

SMT. REKHA KUSHWAHA Petitioner

Through: Mr. Rajeev Kumar, Adv.

versus

PUBLIC GRIEVANCE COMMISSION AND ORS..... Respondent

Through: Mr. Jawahar Raja, ASC with Mr.
Chinmay Kanojia, Adv. for R-1, 2, 4,
5, 6 & 7.

Mr. Ram Kumar, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

CM No.9498/2018

1. Allowed, subject to all just exceptions.

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2. After some arguments, even while the learned counsel for the petitioner seeks permission to withdraw the captioned writ petition he expresses a concern. The concern is that the proceedings in the suit filed by respondent No.8/Sh. Chander Kant in the Court below is not being expedited.

2.1. The petitioner, according to the learned counsel, was constrained to approach this Court because of the lack of alacrity being shown by the Court below in dealing with the matter at hand.

3. To be noted, counsel for the petitioner concedes, though, that the petitioner had filed a suit bearing No.566/2011 in the District Court, at

Rohini, for permanent and mandatory injunction, which was dismissed vide judgment dated 28.11.2015.

4. Furthermore, the record also shows that respondent No.8/Sh. Chander Kant, suit to which reference is made hereinabove, and is numbered as Civil Suit No. 868/2017, is pending adjudication in the Court of Additional Senior Civil Judge, Rohini.

4.1 The record also reveals that via an *ex parte* order dated 9.8.2017 which has been passed in the said suit the defendants, therein, which includes, the Public Grievance Commission, Public Works Department and the petitioner's husband have been directed to maintain *status quo* vis-a-vis the subject property, which is a temple.

5. The petitioner is aggrieved by the fact that the temple is in close proximity to her house and, is therefore, impeding light and air to her house.

6. Clearly, the issues arising in the writ petition and the suit are the same besides the fact that there is a substantial similarity in the parties arrayed in the two actions.

6.1. I am also informed that the petitioner's husband has filed an application under Order 39 Rule 4 of the Code of Civil Procedures, 1908 for vacating the interim order dated 9.8.2017, passed in Suit No.868/2017.

6.2. The gravamen of the petitioner's case in the writ petition, though, is that subject temple is built on the Government land. An aspect which, in my view, can be raised, if necessary, in respondent no.8's suit as well.

7. It is in these circumstances that the petitioner, as indicated above, seeks to withdraw the writ petition and with liberty to approach the concerned court via her husband to seek suitable relief in the suit filed by the respondent No.8/Sh. Chander Kant.

7.1. The reason, perhaps, the petitioner chooses to take this step is, because the suit filed by her has been dismissed and no appeal has been preferred by her against the said decision.

8. Accordingly, the writ petition is dismissed as withdrawn with liberty as prayed for.

9. I am sure that the concerned Court will take up the application for vacation of stay, filed by the petitioner's husband, as contended before me, at the earliest.

RAJIV SHAKDHER, J

MARCH 13, 2018/pmc