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

+ CM(M) 298/2018 and CM APPL.9658-9659/2018

MANJU JAIN AND ANR Petitioners

Through: Mr. Aly Mirza, Advocate

versus

NIRMAL JAIN AND ORS Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **13.03.2018**

There are three suits pending on the file of Mr. Ankur Jain, Additional District Judge-10, Central District, Tis Hazari Courts Complex, Delhi, presently fixed for final arguments on two consecutive dates, *i.e.*, 1st and 2nd May, 2018, by virtue of order dated 06.03.2018, the cases being suit No.611478/2016, titled Manju Jain vs. Manak Chand Jain & Ors., suit No.610389/2016, titled Manak Chand Jain & Ors. vs. Ramesh Jain, and suit No.612157/2016, titled Paveen Jain & Anr. vs. Smt. Manju Jain & Anr.. The said three suits were initially instituted on the original side of this Court. However, on account of change of pecuniary jurisdiction, they were transferred to the district Court. The first said suit was statedly filed in November, 1998, it having been presented as a title suit also seeking declaration and cancellation of certain documents in the nature of sale deed. The other two suits were filed in the year 2000 and 2003 respectively, they being injunction suits. Copies of some of the proceedings and of the

summary of the proceedings as taken down from the website of the Court collectively would show that the petitioner, the plaintiff of the first suit in chronology had earlier sought consolidation of the three matters, which was resisted by the opposite party and thus repelled, the opposite party later having made similar move, which was rejected by the trial judge. Eventually, by virtue of order dated 19.11.2015 passed in CM(M) 56/2015 taken out by the respondents, by consent order dated 19.11.2015, the cases were consolidated. It also appears from the material on record that this Court in the said petition had fixed timeline for the conclusion of the trial and for adjudication of the three cases, assurance of the opposite party having been recorded as to their co-operation to ensure speedy disposal.

It appears that the cases had become ripe for final arguments with the conclusion of the evidence of the defendants on 18.08.2013. Thereafter, they appear to have gone into a state of utter neglect. Though some disruption could be attributable to the death of a party leading to application under Order XXII CPC having been moved, the same did not cause substantial delay as the application to that effect came to be disposed of expeditiously.

The copies of the proceedings placed on record reveal that the petitioner, as the plaintiff of the first suit, has been addressing final arguments which were heard on several dates though staggered and distributed over a long period and before different presiding officers. But, primarily, the defendants has been taking adjournments at the stage of final adjudication, this seemingly against the assurance which was given to this Court on 19.11.2015 at the stage of decision of CM(M) No.56/2015, referred to above.

The first case is more than two decades old now. There can be no dispute as to the fact that the party which initiated the proceedings legitimately hopes for early decision. It is the obligation of the Court to ensure that no party causes unnecessary delay. This court expects the trial Court to exercise effective control over the proceedings.

At this stage, the counsel for the petitioner submitted that he may be allowed to presently withdraw the petition and the applications filed therewith and instead move an application before the trial Court for day to day hearing of the final arguments, *inter alia*, with reference to directions passed in the order dated 19.11.2015 in CM(M) No.56/2015, and the directions passed in order dated 09.07.2009 passed in LPA No.209/2009 in terms of which the cases were to be decided “*preferably by the end of April, 2010*” and the fact that the cases are one of the chronic ones.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed for granted.

R.K.GAUBA, J.

MARCH 13, 2018

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