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

+ CM(M) 423/2017

SATPAL GULIA

..... Petitioner

Through: Mr. R.K. Saini, Advocate with
Mr. Prashant Sharma, Adv. &
Ms. Gemini Sharma, Advocates

versus

DEV RAJ & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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21.02.2018

The civil suit (later registered as Suit No.579/1996) was instituted by the respondents on 06.09.1993 praying for a decree of permanent injunction against the petitioner, who was impleaded as the defendant. The suit was dismissed by the civil Judge by judgment dated 24.12.1999. The respondents (the plaintiffs) brought an appeal against the said judgment which was initially filed before senior civil Judge on 10.02.2000, but later transferred to the Court of Additional District Judge (ADJ), it presently being registered as RC ADJ 60955/2016. The appellants had submitted an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (CPC) on 11.10.2010. It is clear from the copies of the proceedings recorded in its wake that there are directions for the said application to be considered at the time of final arguments on the main appeal. The appeal and the said

application have not seen adjudication till date, even though they have been now pending for over eighteen years.

The petitioner (the respondent in appeal) is aggrieved because there is an interim order operating adverse to his interest, his grievance being that the proceedings are being protracted to avail undue benefit of said interim order.

The respondents had taken notice through counsel on 19.04.2017. The matter has come up for hearing but there is no appearance on behalf of the respondents.

Having heard the learned counsel for the petitioner and having gone through the copies of proceedings recorded on the file of the appeal since inception, this Court finds absolutely no justification for such protracted proceedings and inordinate delay. The appeal and the pending application have to be heard and adjudicated upon without further delay.

In the above facts and circumstances, the learned first appellate Court (ADJ) is directed to expedite the proceedings and not show any further indulgence. If either side does not render cooperation at the time of hearing, the first appellate Court would be within its right and jurisdiction to require written submissions to be filed, unless already filed, and if even that opportunity is not effectively availed, it would have the liberty to proceed ahead with the adjudication on available record.

The Court is informed by the counsel for the petitioner that the matter is coming up before the ADJ on 27.02.2018. It is directed that the learned ADJ will hold effective proceedings on the said date and thereafter continue

with the hearing of the matter, if it is so required, on day-to-day basis and decide the pending application and, in the light of the decision taken thereon, the appeal, as early as possible, preferably within three months of the said next date of hearing.

The petition is disposed of in above terms.

Copy of the order be given *Dasti* under the signature of Court Master.

R.K.GAUBA, J.

FEBRUARY 21, 2018

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