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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 17th September, 2024*

+ CM(M) 3027/2024
UMA AND ORS

.....Petitioner

Through: Mr. Insaaf Duggal with Mr. Ojusya
Joshi, Advocates

versus

RENU KUMARI AND ORS

.....Respondent

Through: Mr. Udit Shah with Ms. Raj Lakshmi,
Mr. Ankur Kumar Tripathy,
Advocates.
(through video conferencing)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 54309/2024 (for early hearing)

1. This is an application seeking early hearing of the main petition which is scheduled for 18.11.2024.
2. Mr. Udish Sah, learned counsel for the respondents has also joined the proceedings through video conferencing.
3. With the consent of the parties, the date is preponed and the matter is taken up for hearing today itself.
4. The next date of hearing stands cancelled.

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5. The issue involved is very short and precise.
6. A suit for partition and permanent injunction was filed by respondent No.1 herein against the petitioners.
7. During course of the proceedings, all such defendants were directed to file written statement subject to cost.



8. However, since the cost was not paid and time was sought again for clearing such cost, the learned Trial Court, observing that sufficient opportunities had already been availed by the defendants in this regard and that they were intentionally delaying the matter, did not accede to such request and closed their right to file written statement.

9. I have heard learned counsel for both the sides, including Sh. Udish Sah, learned counsel for the respondents.

10. It may be worthwhile to mention here that earlier it was argued by the petitioners that on account of their acute financial handicap, they were in no position to deposit the cost but today, learned counsel for the petitioners/defendants states that they would clear such cost tomorrow itself i.e. 18.09.2024, when the matter is fixed before the learned Trial Court.

11. Keeping in mind the overall facts and circumstances of the case and also in the interest of justice, the petition is allowed and order dated 10.01.2024 is recalled with the condition that the respondents would clear the cost of Rs,15,000/- tomorrow itself i.e. on 18.09.2024 before the learned Trial Court. The written statement, if not filed, be also filed within one week from today. The learned Trial Court would proceed further with the matter in accordance with law.

12. Copy of the order be given Dasti under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

SEPTEMBER 17, 2024/st