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

+ CM(M) 1235/2017

ICICI BANK LTD

.... Petitioner

Through: Mr. Punit K. Bhalla and Ms. Chetna
Bhalla, Advs.

versus

ABHISHEK PATHAK

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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31.10.2017

CM No.38969/2017 (for exemption).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

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3. This petition under Article 227 of the Constitution of India impugns the order [dated 11th October, 2017 in CS No.3272/2017 of the Court of Additional District Judge-13 (Central), Tis Hazari Courts, Delhi] though issuing summons of the suit and notice of the application under Order XL Rule 1 of the Code of Civil Procedure, 1908 (CPC) filed by the petitioner / plaintiff but not considering the application under Order XL Rule 1 of the CPC filed by the petitioner / plaintiff for appointment of Receiver for taking into custody the hypothecated vehicle with power to sell the same and not passing any orders thereon.

4. A perusal of the impugned order shows that none appeared for the petitioner / plaintiff on 11th October, 2017.

5. The counsel for the petitioner / plaintiff states that on 11th October, 2017, the Advocates in the District Court were abstaining from work and

though the petitioner / plaintiff immediately thereafter filed an application under Section 151 of the CPC for considering grant of *ex parte* relief sought on the application under Order XL Rule 1 of the CPC but the said application has also been kept for consideration for the same date for which summons of the suit have been ordered to be issued.

6. The petition is disposed of with a request to the learned Additional District Judge to, within three days of production of this order by the counsel for the petitioner / plaintiff before the learned Additional District Judge, pass orders on the application aforesaid under Section 151 of the CPC as well as on the application under Order XL Rule 1 of the CPC.

7. The counsel for the petitioner / plaintiff has also cited the order dated 14th July, 2015 in FAO No.51/2015 titled ***ICICI Bank Ltd. Vs. Rohit Kumar*** and contends that this Court therein also permitted sale of the seized hypothecated asset after a reasonable time. It is contended that the prayer of the petitioner / plaintiff, in a large number of other similar suits, for sale of the seized asset is not being disposed of expeditiously, resulting in the seized asset depreciating in value.

8. The learned Additional District Judge is also requested to, within one month of service of the respondent / defendant, decide the prayer of the petitioner / plaintiff for sale of the seized asset.

9. The petition is disposed of.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

OCTOBER 31, 2017

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