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IN THE HIGH COURT OF DELHI

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FAO No.358/2007

DLF Universal Ltd. & Anr. Appellants
through: Ms.Rohini Rangachari with
Mr.Sindhu Sinha

VERSUS

Rajni Gupta Respondent
through: Mr.A.K.Srivastava

DATE OF DECISION

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13.03.2008

CORAM:

Hon'ble Mr.Justice Pradeep Nandrajog

1. Whether reporters of local papers may be allowed to see the judgment? Y
2. To be referred to the Reporter or not? Y
3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**(Oral)

1. Heard learned counsel for the parties.
2. The appellant impleaded as a defendant has suffered an interim injunction pending disposal of the suit which seeks a decree for specific performance as well as possession of a property situated at Ghaziabad (U.P.).
3. Prayer made in the suit is as under :-

“It is, therefore, prayed that a decree of specific performance may kindly be passed in favour of the plaintiff and against the defendants in respect of plot No.B-1/1, DLF Ankur Vihar,

(Ghaziabad) U.P. and, accordingly, the defendants may be directed to execute the Sale Deed in favour of the plaintiff and hand over vacant and peaceful possession of the said plot to the plaintiff.

Any other or further relief as deemed fit and proper in the interest of justice may be awarded in favour of the plaintiff and against the defendants.

Cost of the suit may also be awarded in favour of the plaintiff and against the defendants.”

4. Opposing grant of any interim injunction, apart from merits it was urged before the learned Trial Judge that it does not have any territorial jurisdiction to even entertain the plaint. Issue of territorial jurisdiction has been disposed of by the learned Trial Judge as under :-

“9. Under these circumstances, I consider that the plaintiff is having a good prima facie case and balance of convenience also lies in her favour and irreparable loss would be caused to the plaintiff if injunction prayed for is denied. The suit property has to be saved and preserved during the trial. The submission on behalf of the defendant to the effect that the property is situated at Ghaziabad, UP and hence this court is having no jurisdiction is not convincing to the court as the plaintiff resides in Delhi and the defendant No.2 resides in Delhi and the office of the defendant No.1 is also in Delhi, no matter if the suit property is situated outside jurisdiction of this court, the injunction as prayed for by the plaintiff can be effected by the **personal obedience** of the defendants only. Consequently, the defendants, his agents, employees, associates etc. are restrained from selling, alienating, transferring, parting with possession or creating any third party interest in

respect of the property bearing No.B-1/1, DLF Ankur Vihar, Ghaziabad, UP till the conclusion of the trial of this suit.”

5. I need not pen down a lengthy judgment on the point as the issue is squarely covered by a decision of the Hon'ble Supreme Court reported as JT 2005 (8) SC 561 Harshad Chiman Lal Modi vs. DLF Universal Ltd. & Anr.

7. It has been held that in a suit for specific performance where possession of the immovable property is prayed for, territorial jurisdiction would be exclusively vested in court within territorial jurisdiction whereof the immovable property is situated.

8. Needless to state, the provisions of Section 20 of the Code of Civil Procedure would have no concern where the issue of territorial jurisdiction is to be determined under Section 16 of the Code. Needless to state, pertaining to the recovery of immovable property meaning thereby seeking possession of immovable property the Court within the local limits of whose jurisdiction the property is situated alone is the court of competent territorial jurisdiction.

9. Since the learned Trial Judge prima facie lacked territorial jurisdiction to entertain the plaint, the instant appeal stands disposed of quashing the impugned order dated 15.5.2007.

10. I direct the learned Trial Judge to study the decision which has been noted by me in the instant order and take corrective action.

11. I clarify that this Court has not expressed any opinion on the merits of the controversy. If the plaint is returned and re-filed in the court of a competent jurisdiction and a fresh application for interim injunction is filed, the same shall be decided by the Court of competent jurisdiction in accordance with law.

12. No costs.

March 13, 2008
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PRADEEP NANDRAJOG, J.