

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **F.A.O. No.375 of 2007 & C.M. Nos.14346/2006, 11550,
16729/2007, 4598/2008, 4915/2009, 9924-9925/2011, 19493, 20294,
21007, 21013/2012, 205-206/2013**

Decided on : 28th May, 2013

PRITI PRATAP SINGH Appellant
Through: Ms. Tasneem Ahmadi & Mr. T.R.
Thakur, Advocates.

Versus

THE SARISKA PALACE & ORS. Respondents
Through: Mr. Brijesh Kalappa & Ms. Divya Nair,
Advocates in C.M. No.206/2013.
Mr. Rajendra Rawat, Advocate for
M/s. Shiva Corporation India Ltd.

**CORAM:
HON'BLE MR. JUSTICE V.K. SHALI**

V.K. SHALI, J.

1. This is an appeal filed by the appellant against the order dated 6.9.2006 passed by the learned Additional District Judge, Delhi rejecting the suit for permanent and mandatory injunction filed by the appellant.

2. Briefly stated the facts of the case are that the appellant/plaintiff originally filed a suit bearing No.238/2006 for permanent and mandatory

injunction against the respondent/defendant, The Sariska Palace, having its office in Bhikaji Cama Place, New Delhi. In the said suit, the appellant had essentially prayed for grant of permanent injunction against the respondents from dealing with the Fort and the Palace in any manner situated at Kuchaman City, Tehsil Nawan, District Nagaur, Rajasthan. Ancillary reliefs regarding permanent injunction from carrying out any repair, construction, alteration or demolition or creating any third party interest in the suit property were also prayed for. The basis for filing this suit for permanent and mandatory injunction was that the appellant/plaintiff stated that she had filed a suit in Delhi High Court titled *Priti Pratap Singh vs. Rani Prem Kumari & Others* bearing No.2414 of 1994 challenging the Will purported to have been made in respect of the properties owned by him including the property of the present suit to a trust. Further, relief of partition and injunction in respect of the properties left behind by her father including the Kuchaman Fort and Palace was prayed for.

3. Notices were issued to the respondent/defendant. The respondent/defendant filed an application under Order VII Rule 10 & 11

CPC bearing I.A. No.11751 of 1998 in Suit No.2837/1998 before the trial court stating that the respondent/defendant, Sariska Palace, was a division of Shebawheels Private Ltd. and the said defendant, Sariska Palace, was only managing the marketing of the Hotel Kuchaman Fort Palace for the purpose of tourism for and on behalf of one M/s. Rathore Hotels and Tours Pvt. Ltd. which has been given the power to run, maintain, advertise the Hotel Kuchaman Fort Palace. In view of the aforesaid application having been filed by respondent/defendant, Sariska Palace, a fresh application under Order I Rule 10 CPC bearing I.A. No.520 of 1999 came to be filed by the appellant for impleadment of M/s. Sheba Wheels Pvt. Ltd. and M/s. Rathore Tours and Travels Pvt. Ltd. as defendants to the suit. Vide order dated 9.7.2003, the High Court permitted the amendment to the suit and the impleadment of these two parties as defendants (now the respondents) to the suit. All the respondents/defendants were proceeded *ex parte*.

4. The *ex parte* evidence was adduced by the appellant. During the pendency of the suit, the status quo order had also been passed in respect of the suit property but on account of enhancement of pecuniary

jurisdiction of the District Court, the suit was transferred to the court of District and Sessions Court and it came to be marked to the Additional District and Sessions Judge, Tis Hazari Courts for the purpose of adjudication which culminated into the impugned order dated 6.9.2006 directing the return of the plaint for want of territorial jurisdiction as the learned judge was of the view that there was an application filed under Order VII Rule 11 CPC by the respondent to which reply had also been filed by the respondent/defendant No.1 but the said application was still pending.

5. The learned Additional District Judge formed the view since the Fort and the Palace was situated in District Nagaur, State of Rajasthan, which was outside the territorial jurisdiction of this court, therefore, no effective relief could be granted by this court. The plaint was ordered to be returned for lack of territorial jurisdiction under Order VII Rule 10 CPC. Reference in this regard was made to Section 16 of the CPC and the judgment cited by the learned counsel for the appellant in this regard passed in *The Fertilizer Corporation of India Ltd. & Others vs. Ranjit*

Kumar Mishra; AIR 1980 Orissa 152 was held to be not applicable to the facts of the present case.

6. Feeling aggrieved by the aforesaid rejection of the plaint, the appellant had filed the present appeal wayback on 18.10.2006 and this court had passed an order of status quo during the continuance of the hearing of the appeal which has continued till date. In between, repeated interim applications have been filed by the appellant making allegations with regard to the alleged additions and alterations as well as structural changes and the damage being caused to the Kuchaman Fort and Palace by the defendants and this court resultantly passing orders for further restraint as well as calling for the report of the Collector of Nagaur, who is stated to have furnished a report supporting the submissions made by the learned counsel for the appellant that alterations, additions and structural changes were made from time to time in the Kuchaman Fort and Palace which had allegedly resulted in damaging the paintings and other heritage articles in the Fort. It may also be pertinent here to mention that there are some applications under Order 39 Rule 2A CPC which were filed by the appellant for initiating of contempt proceedings

for willful and contemptuous disobedience of the order of restraint having been passed by this court by the respondents which are pending adjudication of this court. It was also alleged that in addition to this, there is an application filed by one M/s. Shiva Corporation Pvt. Ltd. for being impleaded as party. All these applications which are more than 7-8 in number are pending adjudication and when the matter was taken up for hearing, this court had requested the learned counsel for the appellant to address the arguments on the main appeal itself rather than seeking adjudication of the contempt applications and other ancillary matters. The fundamental question to be considered was whether the order of the trial court rejecting the plaint on account of lack of territorial jurisdiction was relegated to the background and on the contrary, interim orders were invited repeatedly from the court and the same were followed by contempt applications and thus, complicating the whole issue involved in the appeal. More than six years had gone by since appeal is pending and more than 15 years have gone by since the filing of the suit and the court is not able to decide as to whether the Delhi Court has the territorial jurisdiction or not.

7. It was contended by the learned counsel for the appellant that the present suit was a suit for injunction simplicitor and was essentially for a tort qua the property for which there was no applicability of Section 16 of the CPC. Reliance in this regard was placed on AIR 1928 Calcutta 887 and 1901 (xxvi) ILR 140.

8. It was contended that Section 16 of the CPC which deals with regard to the suits of immovable property, subject to certain exceptions, which would not be applicable to the facts of the present case. Even if it did then, the proviso to Section 16 CPC makes it abundantly clear that the suit can be instituted where the defendants works for gain and in the present case, the defendant Nos.2 & 3 having been impleaded by a specific order of the court and the appellant having filed the records of the defendants/respondents regarding Notice for the Board Meetings, Minutes of their Meetings, Auditors Reports, Directors Reports, Invoices, Brochure, etc. to show that the respondents were working for gain in Delhi and all the activities giving rise to the cause of action for the present but were being carried in Delhi hence, the Delhi court had the jurisdiction. In this regard, the learned counsel placed reliance on *H.*

Ahmed and Co. vs. Kohinoor Glass Factory Ltd., Hyderabad; AIR 1961 A.P. (FB) 476 and Shyama Sundari Dasi 'Devi' vs. Ramapati Chattopadhyaya & Another; AIR 1973 Calcutta 319.

9. It was further contended that so far as the respondent Nos.2 and 3 are concerned, they themselves had admitted that they are carrying out activities in Delhi and, therefore, at best even if it is treated as an admission, the two courts both in Delhi and at District Nagaur, Rajasthan will have the jurisdiction and in case there are two courts having a concurrent jurisdiction, the plaintiff, namely, the appellant had an option to file the suit in either of the two courts and accordingly, the appellant having chosen to file the suit in Delhi could not be said that the Delhi court did not have the jurisdiction. Reliance in this regard was also placed on *Sri Rajendra Mills Ltd. vs. H.V.M. Hazi Hasan Dada & Another; AIR 1970 Calcutta 342* and *The Fertilizer Corporation of India Ltd. & Others vs. Ranjit Kumar Mishra; AIR 1980 Orissa 152.*

10. A subsidiary arguments advanced to this was that the appellant could not be compelled to file the suit in District Nagaur, Rajasthan as is sought to be urged by the respondents. Reliance in this regard was placed

on *M/s. L&T Niro Ltd. vs. M/s. S.R.P. Industries Ltd.*; 93 (2001) DLT 158 and *Kanshi Ram vs. Dule Rai & Co.*; AIR 1933 Lahore 11. On the basis of these submissions, it was contended that the Delhi court has the jurisdiction.

11. This submission made by the learned counsel for the appellant was contested by the counsel appearing for intervenor/applicant for Shiva Corporation Pvt. Ltd. and by the counsel for respondent No.1. At the outset it is stated that the submissions made by the proposed respondents are not being taken into consideration while deciding the present appeal. The reasons for this is that the intervenor/applicant has still not been impleaded as a party and, therefore, till the time they are not impleaded as a party, they have no locus to make any submissions much less the cognizance and the same cannot be taken by this court.

12. The court still has to consider as to whether the suit for injunction, which was filed by the appellant before the Delhi court, could be entertained in respect of a property which was situated in District Nagaur, Rajasthan. There is no dispute about the fact that the appellant has filed the present suit for permanent and mandatory injunction. The suit for

permanent and mandatory injunction presupposes the existence of a right on the basis of which or on the foundation of which a party is claiming a restraint order both permanent in nature and a mandatory in nature qua the respondent/defendant. Unless and until this pre-existing right is not shown to the court *prima facie* to be in existence, it will not be proper for the court to entertain the suit. The pre-existence of such a right would clearly mean that it is a right to immovable property and, therefore, such a suit essentially will be covered by Section 16 (d) CPC.

13. The contention which has been advanced by the learned counsel for the appellant is that it has a pre-existing right in the property, that is, Kuchaman Fort and Palace and that pre-existing right is sought to be based on the suit for partition which has been filed by the appellant bearing No.2414 of 1994 which has been entertained by Delhi Court and in respect of which the injunction order has also been issued.

14. In my view, the very fact that the appellant has filed a suit for declaration challenging the Will of her father which included the suit property and has claimed partition in respect of the said properties of which includes Kuchaman Fort and Palace would not in itself mean that

the appellant has a pre-existing right in such property. This right is yet to be adjudicated finally or in other words till the time a positive finding is returned by the court holding that the appellant has a right in the properties in question, the title of the appellant in respect of those properties is inchoate. So far as the contention of the learned counsel that a restraint order has been issued in the said partition suit against the respondent from creating any third party interest is concerned, that is of no consequence as it is only an interim order and cannot be said to be adjudication of the right of the appellant. Further in case, such an interim order was passed by the court in suit for partition and the appellant was apprehending danger to the suit property, the proper course of remedy was to file an application for the suit rather than file an independent suit, as has been done by the appellant. Therefore, this suit out of which the present appeal arises has to be considered independently. In other words, whether a plaint discloses a cause of action is essentially a question of fact but whether it does or does not, must be found out from the reading of the plaint itself. The test is whether the averments made in the plaint, if taken to be correct in their entirety, a decree would be passed. Seeing from this perspective, the very foundational relief has not been claimed,

that is, either establishing a pre-existing right to the suit property or seeking a declaration to that property and seeking consequential relief only, that is, injunctive relief to get around the bar of territorial jurisdiction, which cannot be done. Reliance in this regard is placed on *Hardesh Ores Pvt. Ltd. vs. Hade & Company*; 2007 (5) SCC 614. It may also be pertinent here to refer to Section 16 CPC. The said section reads as under :-

- “16. *Suits to be instituted where subject-matter situate, subject to the pecuniary or other limitations prescribed: suits,*
- (a) *for the recovery of immovable property with or without rent or profits,*
 - (b) *for the partition of immovable property,*
 - (c) *for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,*
 - (d) ***for the determination of any other right to or interest in immovable property,***
 - (e) *for compensation for wrong to immovable property,*
 - (f) *for the recovery of movable property actually under distraint or attachment, shall be instituted in the Court within the local*

limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant, may where the relief sought can be entirely obtained through his personal obedience be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.- *In this section "property" means property situate in [India].*

20. *Other suits to be instituted where defendants reside or cause of action arises, Subject to the limitations aforesaid, every suit shall be instituted in Court within the local limits of whose jurisdiction-*
- (a) *the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*
 - (b) *any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the*

defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.”

22. *In Harshad Chimanlal Modi Vs. DLF Universal Ltd. (2005) 7 SCC 791, it has been observed by the Apex Court as under:*

“16. Section 16 thus recognizes a well established principle that actions against rest or property should be brought in the forum where such rest is situate. A court within whose territorial jurisdiction the property is not situated has no power to deal with and decide the rights or interests in such property. In other words, a court has no jurisdiction over a dispute in which it cannot give an effective judgment. Proviso to Section [16](#), no doubt, states that though the court cannot, in case of immovable property situate beyond jurisdiction, grant a relief in rem still it can entertain a suit where relief sought can be obtained through the personal obedience of the defendant. The proviso is based on well known maxim "equity acts in personam", recognized by Chancery Courts in England. Equity Courts had jurisdiction to entertain certain suits respecting immovable properties situated abroad through personal obedience of the defendant. The principle on which the maxim was based was that courts could grant relief in suits respecting immovable property situate abroad by enforcing their judgments

by process in personam, i.e. by arrest of defendant or by attachment of his property.

17.
18. *The proviso is thus an exception to the main part of the section which in our considered opinion, cannot be interpreted or construed to enlarge the scope of the principal provision. It would apply only if the suit falls within one of the categories specified in the main part of the section and the relief sought could entirely be obtained by personal obedience of the defendant.*
19. *In the instant case, the proviso has no application. The relief sought by the plaintiff is for specific performance of agreement respecting immovable property by directing the defendant No. 1 to execute sale-deed in favor of the plaintiff and to deliver possession to him. The trial court was, Therefore, right in holding that the suit was covered by Clause (d) of Section 16 of the Code and the proviso had no application.*
20.
21. *Plain reading of Section 20 of the Code leaves no room of doubt that it is a residuary provision and covers those cases not falling within the limitations of Sections 15 to 19. The opening words of the section "Subject to the limitations aforesaid" are significant and make it abundantly clear that the section takes within its sweep all personal actions. A suit falling under Section 20 thus may be*

instituted in a court within whose jurisdiction the defendant resides, or carries on business, or personally works for gain or cause of action wholly or partly arises.”

23. *A perusal of the aforesaid judgment makes it abundantly clear that a Court within whose jurisdiction the property is not situated cannot decide the rights of the parties in respect of land or any other immovable property and give effective judgment ruling on the same. The only exception to this is provided in the provision that is if the relief which is sought is of such a nature that it can be obtained simply by the personal obedience then that Court may entertain such a suit as an exception to Section 16(d) CPC.*

24. *In Vipul Infrastructure Developers Ltd. & Anr. vs Rohit Kochhar; 2008 (102) DRJ 178 (DB), a suit for specific performance relating to a property situated in Gurgaon was filed in Delhi on the ground that the agreement was executed at Delhi and the defendants also carried on business at Delhi. The learned Single judge held the suit to be maintainable on the ground that only a declaration of right and title in the property was sought and not the delivery of possession. The Division Bench overruled this judgment holding that Delhi Court had no jurisdiction to entertain and try the suit. The relevant paras of the judgment are reproduced as under:*

“19. Accordingly, we are of the considered opinion that the submissions of the learned Counsel for the Respondent and the findings recorded by the learned Single Judge that the present case is covered by the proviso of Section 16 of the Code of Civil Procedure are misplaced. In the facts and circumstances of the case as delineated, the relief in the present suit cannot be entirely obtained through the personal obedience of

the Defendants. The proviso to Section 16 of the Code of Civil Procedure would be applicable to a case where the relief sought for by the Plaintiff was entirely obtainable through the personal obedience of the Defendant, i.e., the Defendant has not at all to go out of the jurisdiction of the Court for the aforesaid purpose. The present case is not a case of the aforesaid nature. In the present case for execution of the sale deed the Defendants will have to go out of the jurisdiction of this Court and get the same executed and registered in Gurgaon.

20. *In the present case also it is an admitted position that possession of the said property was with the seller and, therefore, in terms of the provisions of Section 55(1) of the Transfer of Property Act, 1882, the relief of possession is inherent in the relief of specific performance of the contract. In our considered opinion the ratio of the decision of the Supreme Court in Babu Lal (supra) and the principles laid down in the case of Harshad Chiman Lal Modi(supra) are applicable to the facts of the present case. In Harshad Chiman Lal Modi (supra) it was found that in addition to passing decree, the court was also required to deliver possession of the property. It was held that such a relief can be granted only by sending the concerned person responsible for delivery of possession to Gurgaon and the court at Delhi does not have the jurisdiction to get the aforesaid decree enforced for the property situate outside territorial jurisdiction of Delhi High Court. The Court*

while referring to the provisions of Section 16 of the Code of Civil Procedure held that the location of institution of a suit would be guided by the location of the property in respect of which and for determination of any right or interest whereof the suit is instituted. The proviso to Section 16 Code of Civil Procedure is also not applicable to the case, as the relief sought for cannot be entirely granted or obtained through the personal obedience of the Respondent.

25. *Similar view was taken by this Court in Splendor Landbase Limited vs M/s. Mirage Infra Ltd. & Anr. 2010 (116) DRJ 702 (DB). In this case, a suit for declaration and permanent injunction relating to a property situated at Chandigarh was filed at Delhi on the ground that the agreement was executed at New Delhi and payments were also made at New Delhi. The Division Bench of this Court following the judgments of the Supreme Court in Harshad Chiman Lal Modi (supra) and of Division Bench of this Court in Vipul Infrastructure Developers Ltd. (supra) held that this Court has no jurisdiction to entertain and try the suit. The relevant paragraph is as under:*

“25. Having considered the decisions referred by the parties and on a plain reading of the plaint as a whole, it is clear as we have indicated above that the present suit is one which comes within the purview of Section 16 (d) of the Code of Civil Procedure and the proviso of Section 16 of Code of Civil Procedure is not applicable under the circumstances as the proviso of Section 16 of Code of Civil Procedure is an exception to the main part of the Section which cannot be construed to enlarge the scope of the main

provision. If the suit comes within Section 16(d) of the Code of Civil Procedure, it has been held by the Apex Court in Harshad Chimman Lal Modi's case (supra) that Section 20 of the Code would have No. application in view of the opening words of Section 20 "subject to limitations aforesaid". The Apex Court has held that the proviso to Section 16 would apply only if the relief sought could entirely be obtained by personal obedience of the Defendant. The proviso we feel will only apply if the suit falls within one of the categories specified in the main part of the Section. In the present case, although specifically the relief for possession of the property has not been claimed by the Appellant in the prayer for the purpose of development, however, it is settled law that by clever drafting a party cannot be permitted to come within different meaning of relief claimed. Hence, No. benefit can be derived by the Appellant either from the proviso of Section 16 or Section 20 of the Code of Civil Procedure."

15. In view of the aforesaid judgments passed in *Harshad Chimmanlal Modi's case (supra)* and *Splendor Landbase Limited's case (supra)*, it is very clear that although the appellant had filed a suit for permanent and mandatory injunction but since the appellant does not have any pre-existing right in the suit property, therefore, she essentially wants the adjudication of the pre-existing right by a court within whose jurisdiction

the property is not situated, that court cannot grant such a relief. Therefore, the appellant ought to have filed the aforesaid suit in District Nagaur, Rajasthan on the basis of Section 16 (d) CPC. This reasoning gets further fortified because the appellant herself had filed repeated applications alleging that the respondents have done additions, alterations and structural changes in the property in question and invited the report of the Collector which report had further, according to the counsel for the appellant, confirmed that such additions, alterations and structural changes have been done clearly shows this court by virtue of the adjudication of the present suit could not have directed the clock to be put back and those additions, alterations or damages or structural changes which were carried out in the suit property to be undone by a court in Delhi.

16. At this stage, I must also refer to the judgments cited by the learned counsel for the appellant. These are *The Fertilizer Corporation of India Ltd. & Others vs. Ranjit Kumar Mishra*; AIR 1980 Orissa 152, *Gokul Das & Another vs. Chagan Lal & Another*; AIR 1928 Calcutta 887, *H. Ahmed and Co. vs. Kohinoor Glass Factory Ltd., Hyderabad*; AIR 1961 A.P.

(FB) 476, Sri Rajendra Mills Ltd. vs. H.V.M. Hazi Hasan Dada & Another; AIR 1970 Calcutta 342, M/s. L&T Niro Ltd. vs. M/s. S.R.P. Industries Ltd.; 93 (2001) DLT 158 and Kanshi Ram vs. Dule Rai & Co.; AIR 1933 Lahore 11.

17. I have gone through all these judgments. Barring the judgment in *Shyama Sundari Dasi 'Devi' vs. Ramapati Chattopadhyaya & Another; AIR 1973 Calcutta 319*, all other judgments are essentially distinguishable on the facts of each case. In most of these cases, the question of jurisdiction is being seen in the light of the averments made by the respective sides with regard to the place of business of the respondent or the accrual of the cause of action. While as in each case, the question which is to be considered is as to whether a plain and meaningful reading of the plaint shows that Delhi Court has the territorial jurisdiction or not? In this regard, it has already been observed by this court hereinabove that for maintaining a suit of permanent injunction, there must be a pre-existing right in the property. In the instant case, there is no pre-existing right shown by the appellant in the suit property which happens to be Kuchaman Fort situated in District Nagaur, Rajasthan. The appellant has

based her claim on the interim order which has been purportedly passed in regard to the status quo of the said property by a Delhi Court in a suit for partition which, I, *prima facie* feel is not maintainable because the suit property is not situated in Delhi. The appellant is also not seeking a declaration with regard to the property in question. It is in this regard, the judgment of *Shyama Sundari's* case (*supra*) is slightly relevant where the Calcutta High Court has observed that a suit for declaration and injunction does not involve any determination of any interest or right in the land. In the said case, the plaintiff had filed a suit for declaration to the effect that the two documents purported to have been signed by the plaintiff were void and invalid and accordingly, an injunction order was sought against the respondent that he should not interfere with the possession of the plaintiff. It was in this context that the Single Judge of the Calcutta High Court observed that the suit was to be filed under Section 20 of the CPC at the place where the cause of action has accrued or where the defendant resides or works for gain. This judgment, in my opinion, does not lay down the correct exposition of law. It is in stark contrast to the judgment of our own High Court in case titled *Priyanka Vivek Batra vs. Neeru Malik & Ors.*; 154 (2008) DLT 354 wherein the

court has examined entire case law and came to the conclusion that a suit for declaration encompasses to determination of a right or interest in immovable property and it has to be filed at a place of local jurisdiction where the property is situated. The judgment of the Calcutta High Court has only persuasive value which reasoning I find not to be as sound as the reasoning given by our own High Court and I tend to agree with HMJ Rajiv Sahai Endlaw that the suit for declaration ought to be filed at a place where the property is situated. But incidentally, it may be pertinent here to mention that the appellant has not claimed any declaration even and has straight away chosen to file a suit for permanent injunction. Therefore, this question of declaration also is of academic interest and does not help the appellant in any manner.

18. Another noticeable aspect which I must observe in the instant case as well as in other cases is that there is a recent trend in the courts to cite as many judgments as is possible so that the judge is inundated with the case law and is left to search as to what authority is applicable rather than guide him properly. It has been laid down by the Apex Court not in one judgment but in number of judgments that while applying the *ratio*

decidendi of a judgment applicable to the facts of a case, the court must see the factual background in which the law has been laid down and correlate the same with the facts of the case where the law is sought to be made applicable. Reliance in this regard can be placed on *Haryana Financial Corporation & Anr. vs. Jagdamba Oil Mills & Anr.*; AIR 2002 SC 834 and *Sushil Suri vs. CBI*; AIR 2011 SC 1713 and number of other judgments. In the instant case while as without reference to the factual matrix of the case, judgments have been sought to be relied upon by the appellant so as to confuse the court as to the maintainability of the suit itself on account of lack of territorial jurisdiction. I, therefore, feel that the judgments which have been cited by the learned counsel for the appellant are in no way helpful to the appellant in any manner whatsoever.

19. I feel that the judgments passed by the court below allowing the application of the respondent under Order VII Rule 11 CPC and rejecting the plaint holding that the Delhi court did not have the territorial jurisdiction, does not suffer from any illegality or infirmity and accordingly, the appeal of the appellant is without any merit and the same

is dismissed. Since the appeal of the appellant has been dismissed accordingly the order of status quo which has been passed by this court on 19.10.2006 and in respect of the suit property and continued till date, stands vacated.

20. The only question now remains is with regard to two aspects; one is an application under Order I Rule 10 bearing No.19493/2012 filed by Shiva Corporation Pvt. Ltd. for being impleaded as a party. The said application does not survive as the appeal itself has been dismissed. Leaving this court only with C.M. Nos.4598/2008, 9924/2011 & 21007/2012 which are filed by the appellant under Order 39 Rule 2A read with Section 151 CPC that is pertaining to initiation of contempt proceedings against the respondent for willfully disobeying the interim orders passed by this court from time to time. There is no dispute about the fact that in case there were interim orders passed by this court and they were disobeyed by the respondents, the same have to be dealt with in accordance with law. Accordingly, so far as these applications for contempt are concerned, the Registry is directed to segregate them and place in a separate folder along with photocopies of the order of which

the violation is alleged so that the same could be decided independently.

List these contempt applications on 15th July, 2013.

MAY 28, 2013
‘AA’

V.K. SHALI, J.