

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **CS(OS) 2007/2013 & IAs No.4513/2014 and 16742/2013**

Date of Decision: 20<sup>th</sup> January, 2015

IN THE MATTER OF

SAS ARCADIA FLOORS ALLOTEES WELFARE ASSOCIATION ..... Plaintiff  
Through : Mr. Abhishek Malhotra, Advocate

versus

SUMEL HEIGHTS PVT TD & ANR ..... Defendants  
Through : Mr. Vivek Kohli, Adv. for D-1.  
Mr. D.S. Chauhan, Adv. for D-2.

**CORAM**  
**HON'BLE MS.JUSTICE HIMA KOHLI**

**HIMA KOHLI, J. (Oral)**

**I.A.No.21030/2013 (by D-2 u/O VII R-11 CPC)**

1. The present application has been filed by the defendant No.2 stating *inter alia* that the suit instituted by the plaintiff is liable to be rejected as this Court is not vested with the territorial jurisdiction to entertain the same in the light of the reliefs prayed for.

2. Counsel for the defendant No.2 states that in addition to the aforesaid ground taken in the application filed by him for rejection of the plaint, the second ground is that the suit *qua* the defendant No.2 is devoid of any cause of action.

3. Counsel for the defendant No.1 states that the additional plea taken by him for seeking rejection of the plaint is that there is an arbitration clause governing the parties and the plaintiff ought to have approached the learned Arbitrator for appropriate relief.

4. Counsel for the plaintiff disputes the submission made by the counsels for the defendant No.2 and asserts that the defendant No.2 is a necessary and proper party in the present proceedings. However, he does not deny the existence of an arbitration clause governing the plaintiff and the defendant No.1, but states that the said aspect may be left open and the plaint be returned for being presented before the court vested with the territorial jurisdiction to entertain it.

5. Accordingly, the present suit is disposed of, along with the pending applications. The Registry is directed to return the plaint to the plaintiff through counsel for being presented before the District Court at Gurgaon, Haryana where the land is situated and the project in question is to be undertaken. As all the parties are present before the Court, it is deemed appropriate to direct them to appear before the learned District Judge at Gurgaon, Haryana on 20<sup>th</sup> February, 2015 for further proceedings. In view of the aforesaid order, fresh service of the summons in the suit for the appearance of the defendants before the District Court, Gurgaon is dispensed with.

6. Needless to state that both the parties shall be at liberty to take all the pleas as may be available to them on facts and in law before the appropriate court vested with the territorial jurisdiction to entertain the present suit.

**(HIMA KOHLI)**  
**JUDGE**

JANUARY 20, 2015  
sk/mk