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

+ CS(OS) 1202/2013

M/S SHARMA KALYPSO PRIVATE LIMITED Plaintiff
Through: Mr. Subhasish Mohanty, Advocate

versus

GOAN HOTELS & CLUBS PVT LIMITED Defendant
Through: Mr. Karan Luthra, Advocate with
Mr. Aanshkar Singhvi, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

% **ORDER**
12.08.2015

I.A. 1510/2014 (by the defendant u/O XXXVII R 3(4) CPC for leave to defend)

1. The present leave to defend application has been filed by the defendant to contest the summary suit instituted by the plaintiff for recovery of a sum of Rs.34,94,569/-.

2. Counsel for the defendant states that he has raised several objections with regard to maintainability of the suit on the ground that the plaintiff does not have the *locus standi* to institute the suit; that this Court is not vested with the territorial jurisdiction to try and entertain the present suit; that the present suit as filed by the plaintiff is not maintainable as a summary suit; that the suit is bad for misjoinder of independent causes of action etc.

3. Counsel for the defendant presses the first objection with regard to this Court not being vested with the territorial jurisdiction to try and entertain the suit instituted by the plaintiff on the ground that the registered office of the defendant is at Mumbai and all the 14 work orders were issued by the defendant from its site office at Goa, where the plaintiff had undertaken the construction of a five star hotel project and that the bills were prepared by the defendant at their site office at Goa and were sent to the plaintiff etc.

4. Counsel for the plaintiff states that in view of the objections raised by the defendant with regard to the lack of territorial jurisdiction in the Courts at Delhi to try and entertain the suit, the plaint may be returned to him for being presented before the competent court vested with the territorial jurisdiction. He submits that the plaintiff proposes to present the plaint before the District Court at Goa and a date be fixed for the parties to appear before the said Court so that the proceedings can commence from the point at which they are at present.

5. Counsel for the defendant states that he is agreeable to the aforesaid suggestion.

6. Accordingly, the plaint shall be returned to the plaintiff through counsel for being presented before the District Court at Goa. The

parties shall appear before the District Judge, Goa on 28th September, 2015.

7. Counsels for the parties are agreeable that the pleadings in the leave to defend application having been completed, they shall address arguments on the said application before the competent court. The parties shall be entitled to take all the pleas, both in law and on facts to argue the leave to defend application.

8. The suit is disposed of alongwith the pending application.

HIMA KOHLI, J

AUGUST 12, 2015

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