

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

+ TR.P.(C) 6/2015

Decided on 24.04.2015

IN THE MATTER OF :

SHAMSHER SINGH KUKREJA

..... Petitioner

Through: Mr.P.S.Vats and
Mr.Manish Vats, Advocates

versus

AMARJEET SINGH BINDRA & ORS.

..... Respondents

Through: Mr.P.K.Sharma, Advocate for R-1
Mr.R.M.Aggarwal and Ms.Deepika Yadav,
Advocates for R-2 to R-4
Mr.V.K.Mishra, Advocate for R-5

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (Oral)

1. The present Transfer Petition has been filed by the petitioner under Section 24 of the Code of Civil Procedure praying *inter alia* that Suit No.151/2011, entitled "Shamsher Singh Kukreja Vs. Tejender Singh Padam & Ors." , be transferred to this court for trial.
2. Notice was issued in the present petition and pursuant thereto, learned counsels enter appearance for the respondents No.1, 2 to 4 & 5. However, none is present on behalf of the respondent No.6. Counsels for the parties jointly state that the respondent No.6 was proceeded against ex-parte in Suit No.151/2011.
3. Counsels for the respondent No.1, 2 to 4 & 5 oppose the present

petition as they state that Suit No.151/2011 pending in the trial court, was filed prior to the petitioner having instituted CS(OS) No.378/2012 which is pending in the High Court and both the suits are in respect of the very same property. They state that the present petition is nothing but a dilatory tactic adopted by the petitioner to delay the proceedings in Suit No.151/2011, which is at an advance stage. Learned counsels state that it would be appropriate if the proceedings in CS(OS) No.378/2012 are stayed so that the court can have the benefit of the judgment in suit No.151/2011 which is virtually at the fag end of trial.

4. The court is informed that issues have already been framed in Suit No.151/2011, examination-in-chief of the plaintiff has also been recorded and now the case is at the stage of cross-examining the plaintiff's witnesses. However, in CS(OS) No.378/2012, issues have yet to be framed.

5. Counsel for the petitioner does not deny the fact that Suit No.151/2011 had been instituted by his client, prior in time and the same is at the stage of trial where, the petitioner's witnesses are to be cross-examined on 6.5.2015. In other words, it is likely that the evidence in the said suit would be concluded in two/three dates and the case would be ripe for final arguments.

6. In the given facts and circumstances, the court declines to allow the present petition which is disposed of with directions to the parties to ensure expeditious conclusion of the evidence in Suit No.151/2011. After a decision is taken by the trial court in the said suit, a copy of the judgment pronounced shall be placed on the file of CS(OS) No.378/2012.

7. The petition is disposed of.

APRIL 24, 2015
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(HIMA KOHLI)
JUDGE