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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 2465/2012
 RAMESH KUMARI Plaintiff
 Through : None.
 versus

M/S ALAKNANDA PROPERTIES
PVT LTD & ORS Defendants
 Through : Mr. Deepak Dhingra, Adv.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **27.11.2015**

O.A. No.31/2015 in CS(OS) No.2465/2012

Defendant no.2 had filed the I.A. No.501/2013 under Order I Rule 10 CPC for deletion of her name. This application has been dismissed by the Joint Registrar vide order dated 14th November, 2014. Aggrieved by this order, defendant no.2 has preferred this appeal.

It was contended before the Joint Registrar that criminal complaint was filed by the defendant no.1 and not by the defendant no.2 in her individual capacity. Defendant no.2 had pursued the complaint on behalf of the defendant no.1 having been authorized to do so vide a Board Resolution passed by defendant no.1. She did not pursue the complaint in the individual capacity. The Joint Registrar has observed that defendant no.2

had appeared on behalf of the defendant no.1 company. She had signed the suit for specific performance and criminal complaint. She had appeared as a witness in the criminal complaint, which act cannot be said to be done solely for the defendant no.1. It has been further observed that specific averments were made against the defendant no.2 in para no.17 of the plaint, thus, her name cannot be deleted.

I do not find any infirmity and illegality in the impugned order passed by the Joint Registrar. It is a trite law that averments made in the plaint have to be taken on its face value at the initial stage. Merits of the averments are tested only during the trial. As per the learned counsel averments are vague and false. Thus, in my view, it is a subject matter of trial. Specific averments have been made against the defendant no.2 regarding her role of supplying the copy of the criminal complaint to one Mr. Karan Singh who in turn gave it to plaintiff's husband, which prima facie, can be taken as publication. Appeal is dismissed.

CS(OS) No.2465/2012

Plaintiff has filed this suit for the recovery of Rs.1,00,00,000/- from the defendants for malicious prosecution and defamation. In view of the notification no.27187/DHC/Orgl. dated 24.11.2015, under Section 4 of the Delhi High Court (Amendment) Act, 2015, the suit has to be transferred to the

subordinate courts of competent jurisdiction.

Learned counsel for the defendants submits that suit be transferred to the District Judge (South District), Saket Courts Complex, New Delhi. Ordered accordingly. File be sent to the District Judge (South District), Saket Courts Complex, New Delhi forthwith. Parties shall appear before the District Judge (South District), Saket Courts Complex, New Delhi on 12th January, 2016.

A.K. PATHAK, J.

NOVEMBER 27, 2015

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