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

+ **RSA 138/2015 and C.M. No. 6652/2015**

AMAR NATH

..... Appellant

Through: Mr. S.K. Sharma, Advocate.

versus

YOGESH KUMAR SHARMA

..... Respondent

Through: Mr. Jawahar Chawla, Advocate.
Mr. Rahul Aggarwal, SDM
(Saraswati Vihar), North-West
District, Delhi, in person.

+ **RSA 139/2015 and C.M. No.6654/2015**

KALAWATI

..... Appellant

Through: Mr. S.K. Sharma, Advocate.

versus

LALITA SHARMA

..... Respondent

Through: Mr. Jawahar Chawla, Advocate.
Mr. Rahul Aggarwal, SDM
(Saraswati Vihar), North-West
District, Delhi, in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

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30.06.2015

1. The SDM, North-West District has appeared and he has produced before this Court a communication under his signatures dated 29.06.2015,

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wherein he has clarified that Trinagar area falls in North-West District. The aforesaid clarification was sought in the following background.

2. The respondent preferred two civil suits for possession & damages against the appellants being Suit Nos.93/2010 and 1072/2010. These suits were decreed vide common judgment dated 04.03.2014 by the Court of Ms.Snigdha Sarvaria, Civil Judge Central-05, Tis Hazari Courts, Delhi. The suit property is situated in Tri Nagar. When the suit was filed initially in 2004, the District Courts at Tis Hazari had the jurisdiction to deal with the cases, however, on subsequent creation of different districts, cases pertaining to Tri Nagar stood transferred to District Courts, Rohini since Tri Nagar falls in North-West District and jurisdiction with regard to the North-West District stood transferred to the District Courts, Rohini.

3. Upon the judgment being passed by the learned Trial Court on 04.03.2014, the defendants/ appellants preferred two appeals being RCA Nos. 63/2014 and 49/2014. The respondents plaintiffs raised a preliminary issue with regard to the territorial jurisdiction of the Appellate Court on the premise that since the impugned judgment had been passed by the Civil Judge Central-05, Tis Hazari Courts, Delhi, the appeal would also lie before the competent District Judge Central, Tis Hazari Courts, Delhi. By the impugned judgment, the learned ADJ-03, North-West, Rohini Courts Sh.Rakesh Kumar Sharma agreed with this submission of the respondents plaintiffs and dismissed the appeals with costs.

4. The submission of learned counsel for the appellants in the two appeals is that when a separate district was carved out as North-West

District over which the jurisdiction was transferred to the District Judge, Rohini Courts, the suits preferred by the respondents plaintiffs were not transferred even though jurisdictionally the suit property falls in Tri Nagar, i.e. under North-West District. He submits that this was a lapse on the part of the Court's administration. Even the plaintiffs did not bring this aspect to the notice of the learned Trial Court and proceeded to pursue their suits before the learned Civil Judge Central-05, Tis Hazari Courts, Delhi. However, when the suit was decreed, in view of the fact that the suit premises is situated in Tri Nagar – which falls under North West District, the appeals were preferred before the District Judge, North-West, Rohini Courts.

5. Learned counsel submits that the appellants cannot be made to suffer on account of a lapse on the part of the Court in not transferring the civil suits during their pendency before the Civil Judge, North-West District and the lapse of the plaintiffs in seeking transfer of the two suits before the Civil Judge, North-West District. He further submits that, in any event, the appellants cannot be remediless and their appeals would lie before the District Judge, Central District, Tis Hazari Courts, if not before the District Judge, North-West District.

6. Learned counsel for the respondents plaintiffs does not dispute the fact that the appellants cannot be remediless, and even if the appeals did not lie before the District Judge, North-West, the same would lie before the District Judge, Central, Tis Hazari Courts.

7. In my view, the aforesaid confusion with regard to the competence of

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District Judge before whom the appeals would lie, cannot take away the valuable right of the appellants to pursue their remedy of appeal. Accordingly, after hearing learned counsel and with their consent, the impugned judgment is set aside and the two appeals are restored. At the same time, in exercise of powers conferred by Section 24 CPC, the said appeals are transferred to the District Judge, Central, Tis Hazari Courts, Delhi. The parties shall appear before the District Judge, Central, Tis Hazari Courts on 10.08.2015. The complete records of the civil suits as well as the first appeals shall be transferred by the District Judge, North-West to the District Judge, Central, Tis Hazari Courts without any delay.

8. A copy of this order be communicated to the District Judge (North-West), the District Judge (Central), Tis Hazari Courts as well as the Trial Court.



VIPIN SANGHI, J

JUNE 30, 2015

B.S. Rohella