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

+ CS(OS) 177/2011

SANJEEV KANSAL

..... Plaintiff

Through: Mr. B.B.Gupta, Mr. Sauyam and Mr.Udyam
Srivastava, Advocates.

versus

LAXMI CHAND SHARMA

..... Defendant

Through: Mr. Chatanya Siddharth, Adv. for D-1.
Mr. Francesco Kapur, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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08.02.2016

I.A No 8051/2015 (delay of 211 days in filing O.A),

For the reasons stated in the application delay in filing the O.A is
condoned.

I.A stands disposed of.

**O.A No. 141/2015 & I.A No. 8052/2015 (for direction U/s 151 CPC) &
I.A 8053/2015 (Exemption)**

1. This suit which was decreed was revived by an order of a Division Bench of this Court dated 3.2.2014. The original defendant to the suit had expired and as per order of the Division Bench the three legal heirs of the deceased defendant were to be made defendants in the suit. Plaintiff has filed the amended memo of parties showing the three defendants as the legal

heirs of the original defendant Sh. Laxmi Chand Sharma.

2. After the plaintiff filed the amended memo of parties there is no ordersheet of this Court showing issuance of summons in the suit to defendant no.1 or the defendant no.1 being served and appeared through counsel. Therefore, unless the defendant no.1 was served, it was not permissible by the Joint Registrar vide orders dated 16.9.2014 and 9.4.2015 to close the right of the defendant no.1 to file the written statement and the documents.

3. Since defendant no.1 was never served, there does not arise any issue of closing the right of the defendant no.1 to file the written statement and the documents and therefore, orders dated 16.9.2014 and 9.4.2015 are set aside to the extent that the right of the defendant no.1 to file the written statement and the documents was closed.

4. Plaintiff will supply copy of the complete paper book to the counsel for the defendant no.1 within a period of one week.

5. Defendant no.1 will file the written statement within a period of four weeks of the case being first listed before the concerned transferee court which will take up the suit for hearing and disposal.

O.A and I.As are accordingly allowed and disposed of.

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6. Since this Court does not have pecuniary jurisdiction in view of the Office Order dated 24.11.2015 issued by Hon'ble the Chief Justice in exercise of powers conferred by Section 4 of the Delhi High Court (Amendment) Act, 2015, whereby ordinary suits which are not commercial matters having pecuniary jurisdiction up to the value of rupees two crores cannot be tried by this Court and commercial matters up to the value of rupees one crore cannot be tried by this Court, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge (South), Saket Courts, New Delhi.

7. Let parties appear before the District & Sessions Judge (South), Saket Courts, New Delhi on 22nd March, 2016. Suit file be made available to the District & Sessions Judge (South), Saket Courts, New Delhi, on the date fixed.

VALMIKI J. MEHTA, J

FEBRUARY 08, 2016

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