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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1885/2000**
ANITA PHALPHER Plaintiff

Through: Ms. Upasana Kang, Adv.

Versus

DIPANKAR SEN Defendant

Through: Mr. Pushkar Sood & Ms. Akshita
Chhatwal, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.10.2016**

OA No.392/2015 (of the Plaintiff)

1. The plaintiff, by this Chamber Appeal impugns the order dated 25th August, 2015 closing the evidence of the plaintiff in this suit for recovery of about Rs.48,00,000/-.
2. The learned Joint Registrar has in the impugned order noted that on the previous date of 25th May, 2015, after completing the statement of PW1, the matter was renotified for remaining plaintiff's evidence on 25th August, 2015 but neither plaintiff filed any affidavit of evidence nor any witness was present on that date.
3. The counsel for the plaintiff on enquiry states that only one other witness viz. Mr. Vikram Kumar is to be examined and no other witness is to be examined.
4. The counsel for the defendant has been heard.
5. Subject to the plaintiff paying cost of Rs.25,000/- to the counsel for the defendant, the plaintiff is granted opportunity to examine PW2 Mr. Vikram Kumar and no other witness.

6. It is further clarified that if the said witness does not appear on the date fixed for recording of his evidence or if the counsel for the plaintiff does not appear to have the statement of the said witness recorded, no adjournment shall be granted and the evidence of the plaintiff shall remain closed.

7. The Chamber Appeal is disposed of.

CS(OS) No.1885/2000

8. This suit, in accordance with the Office Order dated 24th November, 2015 of Hon'ble the Chief Justice in exercise of powers under Section 4 of the Delhi High Court (Amendment) Act, 2015, is liable to be transferred to the District Court since the valuation thereof is less than the enhanced minimum pecuniary jurisdiction of this Court.

9. The counsels inform that this suit was connected to another suit which has been transferred to the Court of Sh. Pooran Chand, Additional District Judge (South-East), Saket Court Complex, New Delhi and is listed next on 6th March, 2017.

10. On further enquiry, it is informed that evidence is being separately recorded in the two suits.

11. With the consent of the counsels, this suit is also transferred to the Court of Sh. Pooran Chand, Additional District Judge (South-East), Saket Court Complex, New Delhi.

12. The file be sent forthwith.

13. The parties to appear before the Court of Sh. Pooran Chand, Additional District Judge (South-East), Saket Court Complex, New Delhi on 6th December, 2016.

14. Since vide order dated 25th May, 2005 the right of the defendant to cross-examine PW1 was also closed, it is clarified that the defendant shall be entitled to cross-examine PW2 and thereafter the matter will be listed for evidence of the defendant.

RAJIV SAHAI ENDLAW, J

OCTOBER 25, 2016

‘gsr’..