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

+ **CS(OS) 395/2002**

LLOYD INSULATIONS

..... Plaintiff

Through: Mr. Anshuman, Advocate

versus

NAVEEN PROJECTS

..... Defendant

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

01.06.2016

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The case has been placed before this Court in view of the order passed by the learned District & Sessions Judge(South East), Saket, vide order dated 04.02.2016. It has been retransferred in the light of the order No. 5456/DHC/Orgl/2016 dated 28.04.2016 passed by Hon'ble the Chief Justice. In my view, the learned District & Sessions Judge has not correctly appreciated the purport of the said order. The said order has been issued in the light of the first proviso to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, which reads as under:

“Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed or pending on the original

side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court.

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of Section 22 of the Designs Act, 2000 (16 of 2000) or Section 104 of the Patents Act, 1970 (39 of 1970) shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercised ordinary original civil jurisdiction.”

The relevant words which have not been taken into account by the learned District & Sessions Judge are, ‘*stipulated by an Act to lie in a court not inferior to a District Court*’. The present is a suit for recovery arising out of commercial transaction. There was and is no legal bar to the institution of a suit for recovery in a court inferior to a District Court. The aforesaid words in the first proviso intend to cover such like cases which, could not by force of law, be instituted in a court inferior to District Court i.e. in respect of the subject matter of the dispute, a court inferior to District Court does not have jurisdiction. It is disputes falling under the IPR laws, such as, the Copyright Act, Trademarks Act, Patent Act and Designs Act, which, are intended to be covered by the said stipulation in the aforesaid proviso. Accordingly, the suit is once again transferred to the District & Sessions Judge (South East), Saket, New Delhi.

List before the said Court on 08.08.2016.

VIPIN SANGHI, J

JUNE 01, 2016

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