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

+ CS(OS) No. 1674/2003

PUSHPANJALI SALES PVT. LTD. Plaintiff

Through: Mr. M.R. Chawla, Adv.

Versus

TELE SHOP (INDIA) PVT.LTD & ORS Defendants

Through: Mr. Vaibhav Kalra, Adv. for D-4.

AND

+ CS(OS) No. 2392/2001

PUSHPANJALI SALES PVT. LTD. Plaintiff

Through: Mr. M.R. Chawla, Adv.

Versus

TELE SHOP (INDIA) P.LTD & ORS Defendants

Through: Mr. Vaibhav Kalra, Adv. for D-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **16.08.2016**

1. CS(OS) No.2392/2001 is for recovery of Rs.14,67,750/-.
2. CS(OS) No.1674/2003 is for recovery of Shop No.D-28, Connaught Circus/Place, New Delhi – 110 001 and for recovery of Rs.25,02,500/- and Rs.1,20,000/-; the valuation of the suit for the relief of recovery of possession of Shop No.D-28, Connaught Circus/Place, New Delhi – 110 001 is Rs.9,00,000/-.
3. Though on enhancement of minimum pecuniary jurisdiction of this Court from Rs.5,00,000/- to Rs.20,00,000/- CS(OS) No.2392/2001 was to be transferred to the District Court but was retained in this Court owing to the order dated 8th September, 2003 in CS(OS) No.1674/2003 to the effect that CS(OS) No.2392/2001 is to be tried along with CS(OS) No.1674/2003.

4. The counsel for the plaintiff in both the suits states that now, on enhancement of the minimum pecuniary jurisdiction of this Court from above Rs.20,00,000/- to above Rs.2,00,00,000/-, both the suits are liable to be transferred to the District Court.
5. None appears for the defendants no.1 to 3.
6. The counsel for the defendant no.4 who states that the defendants no.1 to 3 are the contesting defendants however states that in accordance with the Notification dated 28th April, 2016 the suits are liable to be retained in this Court as CS(OS) No.1674/2003 is a commercial suit.
7. The counsel for the plaintiff rightly states that even if it is a commercial suit, the valuation thereof being less than Rs.1,00,00,000/-, it is not to be tried by the Commercial Division of this Court.
8. Notification to which the counsel for the defendant no.4 refers is on account of the first proviso to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (Commercial Courts Act) but which first proviso applies only to suits which as per stipulation by any Act cannot lie in any Court inferior to a District Court. Such is not the position with respect to CS(OS) No.1674/2003.
9. The counsel for the defendant no.4 then states that the value of Shop No.D-28, Connaught Circus/Place, New Delhi – 110 001 is above Rs.1,00,00,000/- and thus the specified value in terms of Section 12 of the Commercial Courts Act of the subject suit would be over Rs.1,00,00,000/-.
10. The said contention has already been dealt with and rejected in judgment dated 19th July, 2016 in CS(OS) No.2330/2008 titled ***Soni Dave***

Vs. M/s Trans Asian Industries Expositions Pvt. Ltd.

11. The suits are thus liable to be transferred to the District Court.

12. The counsel for the plaintiff as well as the counsel for the defendant no.4 state that the jurisdiction of the District to which the suits have to be transferred would be as per the location of Shop No.D-28, Connaught Circus/Place, New Delhi – 110 001 and which falls within the jurisdiction of District, New Delhi, Patiala House Courts.

13. The suits [CS(OS) No. 1674/2003 & CS(OS) No. 2392/2001] are accordingly ordered to be transferred together to the District Judge, New Delhi, Patiala House Courts, New Delhi.

14. The parties to appear before the Additional District Judge/District Judge, New Delhi, Patiala House Courts on 14th September, 2016.

RAJIV SAHAI ENDLAW, J.

AUGUST 16, 2016

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