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

+ CS(OS) 502/2004 & IAs No.6462/2016 (u/S 151 CPC) & 11321/2016
(of D-1 for hearing of this suit with CS(OS) No.406/2005)

SMT. PAVAN ANAND Plaintiff

Through: Ms. Mrinmoi Chatterjee, Adv.

Versus

J.C. SACHDEVA Defendant

Through: Mr. Ravi Krishan Chandna and Ms.
Sadhna Sharma, Advs.

AND

CS(OS) 406/2005

RAJESH GULATI AND ANR Plaintiffs

Through: Mr. Ravi Krishan Chandna and Ms.
Sadhna Sharma, Advs.

Versus

JAGDISH CHANDER GULATI AND ORS Defendants

Through: Ms. Mrinmoi Chatterjee, Adv. for
D-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.11.2016

1. CS(OS) No.502/2004 is for recovery of possession of property No.32, Bungalow Road, Kamla Nagar, Delhi and for ancillary reliefs.

2. It is the case of the plaintiff Smt. Pavan Anand in CS(OS) No.502/2004 that the said property No.32, Bungalow Road, Kamla Nagar, Delhi was the property of late Sh. Chanan Mal Gulati and the plaintiff Smt. Pavan Anand is the only daughter and heir of Sh. Chanan Mal Gulati and is

thus entitled to remove the defendant Sh. Jagdish Chander Sachdeva (who has since died and has been substituted by his heirs namely Sh. Rajesh Gulati, Sh. Gautam Gulati and Smt. Niti Kohli) who is/are in possession of the property.

3. The defendant Sh. Jagdish Chander Sachdeva (since deceased) claims to be the adopted son of Sh. Chanan Mal Gulati.

4. Issues were framed on 3rd August, 2005 in CS(OS) No.502/2004 and the trial therein is complete and the same is now stated to be ripe for hearing final arguments.

5. The counsel for the plaintiff Smt. Pavan Anand in CS(OS) No.502/2004 states that the said suit, in accordance with the Office Order dated 24th November, 2015 of Hon'ble the Chief Justice of this Court in exercise of powers under Section 4 of the Delhi High Court (Amendment) Act, 2015, is liable to be transferred to the subordinate Courts, as the valuation thereof for the purposes of court fees and jurisdiction is less than the enhanced minimum pecuniary jurisdiction of this Court.

5. CS(OS) No.406/2005 has been filed by Sh. Rajesh Gulati aforesaid and his son Sh. Arjun Gulati against Sh. Jagdish Chander Gulati, Sh. Gautam Gulati and Smt. Niti Kohli, for partition of property No.32, Bungalow Road, Kamla Nagar, Delhi.

6. The plaintiff in CS(OS) No.502/2004 Smt. Pavan Anand has however also got herself impleaded as defendant No.4 in CS(OS) No.406/2005.

7. No issues even have been framed in CS(OS) No.406/2005 till now.

8. The counsel for Sh. Rajesh Gulati and Arjun Gulati, plaintiffs in CS(OS) No.406/2005 states that CS(OS) No.502/2004 be not transferred to CS(OS) 502/2004 & CS(OS) 406/2005

the subordinate Court and the two suits be tried together.

9. None appears for the other defendants in CS(OS) No.406/2005, except counsel for the defendant No.4 therein i.e. Smt. Pavan Anand.

10. The trial in CS(OS) No.502/2004 having already been completed, the question of the two suits to be tried together does not arise.

11. It is quite obvious that the transfer of CS(OS) No.502/2004 to the subordinate Courts in accordance with the Office Order dated 24th November, 2015 supra is being opposed fearing that the same on transfer will be disposed of expeditiously. In fact CS(OS) No.406/2005 appears to have been filed only with the said intention.

12. Such tactics in abuse of the process of the Court cannot be permitted. Rather, I am of the view that once CS(OS) No.502/2004 is decided and if it is decreed in favour of the plaintiff therein Smt. Pavan Anand, the question of putting CS(OS) No.406/2005 to trial may not even arise, inasmuch as neither the plaintiffs nor the defendants in CS(OS) No.406/2005 would then have any right to the property or to partition thereof, as is claimed in CS(OS) No.406/2005.

13. Accordingly, CS(OS) No.502/2004 is transferred in terms of Office Order dated 24th November, 2015 supra.

14. Since the property is situated at 32, Bungalow Road, Kamla Nagar, Delhi and which is stated to fall in the jurisdiction of the District-North, Rohini Courts, Delhi, both counsels state that the said suit be transferred to the District Judge, District (North), Rohini Courts, Delhi.

15. The parties to appear before Additional District Judge/District Judge (North), Rohini Courts, Delhi on 19th December, 2016.

16. It is deemed appropriate to defer the framing of issues in CS(OS) No.406/2005, as the outcome thereof, as aforesaid, would depend upon the outcome of CS(OS) No.502/2004.

17. The District Judge/Additional District Judge, District (North), Rohini Courts, Delhi to which CS(OS) No.502/2004 is transferred is requested to endeavour to hear final arguments in the said suit as expeditiously as possible and endeavour to pronounce judgment thereon by 20th February, 2017.

18. List CS(OS) No.406/2005 on 10th March, 2017.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 08, 2016

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