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

+ **CS(OS) 295/2009**

AARTI AGARWAL & ANR Plaintiffs
Through: Mr. Prabhjit Jauhar, Advocate with
Ms. Aakriti Dawar, Advocate.

versus

MOHINDER KUMAR KAPILA & OTHERS Defendants
Through: Mr. Suryakant Singla, Advocate for
defendant Nos.2 and 3.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **29.03.2016**

O.A. No.204/2015 (against order dated 16.4.2015 by plaintiffs)

1. By this O.A., plaintiffs challenge the order of the Joint Registrar dated 16.4.2015 by which the Joint Registrar has declined the request of the plaintiffs to place on record a chargesheet alongwith the relevant FIR No.386/2008 attached to the chargesheet as also FSL report which is part of the chargesheet.

2. After arguments and in view of the legal position, it is agreed that so far as the chargesheet supported by the FIR and FSL report is

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concerned, plaintiffs can be formally allowed to file the same but filing of the same by the plaintiffs will not amount to proving of the contents of the documents or relevancy of the evidence which is sought to be led, and which aspects will be decided at the stage of final arguments in the suit. It is further clarified that FSL report being an expert's evidence under Section 45 of the Evidence Act, 1872, the said document can only be proved through the author of the report and with opportunity being granted to the other side to cross-examine the author of the report. It is also agreed that plaintiffs will be allowed to file amended list of witnesses which will include one additional witness being the second attesting witness Smt. Pyari Wazir. Accordingly list of witnesses filed is taken on record.

O.A. is accordingly allowed and disposed of but subject to aforesaid observations.

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3. Since an Office Order dated 24.11.2015 has been 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, accordingly, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge, Patiala House Courts, New Delhi.

4. Let parties appear before the District & Sessions Judge, Patiala House Courts, New Delhi on 9th May, 2016. Suit file be made available to the District & Sessions Judge, Patiala House Courts, New Delhi on the date fixed.

VALMIKI J. MEHTA, J

MARCH 29, 2016
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