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

+ **CS(OS) 1625/2014**

MASTER CHINMAY KALRA & ANR Plaintiffs

Through: Ms. Kajal Chandra, Ms. Swati Sinha and
Ms. Prerna Chopra, Advocates

versus

KAUSHLYA KALRA & ORS Defendants

Through: Mr. Sanjeev Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **27.09.2016**

1. This suit for declaration, partition and permanent injunction was presented in May 2014 in this court with the following pleadings in para 43 :-

“That the suit for the purpose of court fees and jurisdiction is valued at Rs.21,00,000/-. The plaintiffs undertake to this Hon’ble Court to pay the requisite court fees after the share of the plaintiffs has been ascertained and determined on the conclusion of the proceedings. For the purposes of declaration the suit is valued at Rs.200/- on which court fees of Rs.20/- has been affixed. That as the plaintiffs being co-owners are in joint and constructive possession of the suit properties and as such affixing the court fee of Rs.20/-, Plaintiffs are in constructive possession of the suit properties as her goods / belongings are admittedly lying at 158, New Rajdhani Enclave, Vikas Marg, Delhi and are in custody and possession of the defendants.

2. Taking note of the averments to above effect, upon Delhi High Court (Amendment) Act, 2015 coming into force and order dated

24.11.2015 of Hon'ble the Chief Justice having been notified, this court by order dated 01.12.2015 found that the case required to be transferred to the jurisdiction of the District Judge (East) at Karkardooma Courts, Delhi and made it over accordingly directing the parties to appear before the said court on 23.01.2016. From the proceedings recorded thereafter on the file, it appears that the District Judge (East) decided to keep the suit on his own board and heard the matter on certain dates.

3. On 07.09.2016, it was pointed out to the District Judge by Mr. Sanjeev Sharma, counsel for the defendants that as per para 40 of the plaint, the property in dispute had been shown to be of the value of Rs.7.5 Crores. It was also submitted that since the suit is for partition, the jurisdiction of the case has to be decided on the basis of the total value of the property sought to be partitioned. The plaintiff through counsel, Ms. Prerna Chopra submitted "no objection" if the suit were to be "sent back" by the District Judge to this court where it had been earlier pending. Noticeably, there was no move by the plaintiff to incorporate any amendment of para 43 as has been quoted above. The District Judge taking note of the above mentioned submissions, directed the suit filed to be "sent" to this court, calling upon the parties to appear here today.

4. Having heard the learned counsel on both sides and having gone through the proceedings on file as above, this court finds it most inappropriate for such submission to be made before the District Judge. The submissions indicate both the parties had joined hands together to suggest to the District Judge to virtually re-transfer the case to the file of this court for which there was no provision in

law. The District Judge should have remembered that he had no power in law to “transfer” the case in the manner he has done to this court.

5. The case is, therefore, returned to the file of the District Judge (East) for appropriate further proceedings in accordance with law. The Registry shall take steps and ensure that the file is laid before the District Judge (East) on 03.11.2016 when the parties shall appear before the said court.

R.K.GAUBA, J.

SEPTEMBER 27, 2016

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