

\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1700/2014**
JINDAL ROLLING MILLS LTD Plaintiff
Through: Mr.Arjun Narayan, Advocate

versus

SHREE SIDDHIVINAYAK ISPAT PVT LTD Defendant
Through: Mr.N.K.Bhardwaj and Mr.Bikash
Ghorai, Advocates

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

%

21.07.2016

I.A. NO. 8503/16 (by the plaintiff u/O 7 R 10A CPC)

1. The present application has been filed by the plaintiff stating, *inter alia*, that in the light of the recent decision of the Supreme Court in the case of **Indian Performing Rights Society Ltd.v. Sanjay Dalia & Ors.** reported in **2015 (1) SCC 1**, the plaintiff may be permitted return of the plaint to enable him to present it before the District Court, Hissar. He further states that a date may be fixed for the appearance of the parties before the concerned Court at Hissar.

2. Learned counsel for the defendant states that in the light of the decision in the case of **Sanjay Dalia (Supra)**, on being returned, the present plaint ought to be presented by the plaintiff in the High Court of Bombay as the defendant is based in the State of Maharashtra.

3. The said aspect need not engage this Court which is only required to pass an order on an application filed by the plaintiff for seeking return of the plaint. The defendant shall however be at liberty to raise the issue of lack of

territorial jurisdiction before the concerned Court at Hissar.

4. At this stage, learned counsel for the plaintiff states that it may be clarified that the proceedings in the present suit would not stand terminated today, which is the date of passing of an order on the present application, but will stand terminated on the date when the plaint is actually handed over to the plaintiff for being presented before the proper Court. In support of the said submission, he relies on a decision in case of Smt.Latadevi v. Ramnath & others **AIR 1987 Bombay 364** and a decision of a Single Judge of this Court in the case of Honda Giken Kogyo Kabushiki Kaisha v. Riaz Ahmed Khan & Anr. **147 (2008) DLT 537**, wherein, it was held that proceedings in a suit terminate effectively only when the plaint is returned/handed over to the plaintiff for presentation to the proper Court and not on the date of the passing of order for return of the plaint.

5. Keeping in mind the view taken in aforesaid decisions, the present application is allowed and the Registry is directed to return the plaint to the counsel for the plaintiff for being presented before the District Court at Hissar. It is clarified that the date of termination of the proceedings in the suit shall be reckoned as on the date when the plaint is returned by the Registry to the plaintiff through its counsel. As both the parties are duly represented through their respective counsels today, they are directed to ensure their presence before the competent Court at Hissar on 28th July, 2016.

6. The suit and the applications are disposed of.

HIMA KOHLI, J

JULY 21, 2016/sv/ap