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

+ CS(COMM) 310/2016

RASNA PRIVATE LTD Plaintiff

Through: Mr.Shobit Aggarwal, Adv.

versus

DIPAK MODI & ORS Defendants

Through: Ms.Anushree Kapadia,Adv. for D1&2

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **27.04.2016**

IA No.6091/2015 (under Order 7 Rule 10 CPC)

1. This is an application under Order 7 Rule 10 CPC filed by defendant no.2 for return of the plaint.

2. It cannot be disputed on behalf of the plaintiff in view of the judgement of the Hon'ble Supreme Court in the case of ***Indian Performing Rights Society Ltd. Vs. Sanjay Dalia and Ors. (2015) 10 SCC 161*** that this Court would not have territorial jurisdiction inasmuch as plaintiff also has an office where all the defendants are residing and or having office in Ahmedabad (Gujarat).

3. Counsel for the plaintiff, however requests this court to exercise

power under Order 7 Rule 10A CPC. I agree and accept the oral application of the plaintiff in this regard.

4. Accordingly, the suit plaint be returned by the Registry of this Court to the plaintiff within two weeks from today as per Order 7 Rule 10A CPC.

5. It is noted that defendant nos.1 and 2 who are appearing in the suit through counsel would on the directions of this Court now given, be bound to appear before the court where the suit plaint would now be filed on the date fixed.

6. Counsel for the plaintiff submits that the suit will have to be instituted before the city Civil Court in Ahmedabad (Gujarat) and the same will be appropriately decided by the Principal, District & Sessions Judge, Ahmedabad (Gujarat) and therefore, plaintiff and defendant nos.1 and 2 are directed to appear on the date fixed before the Principal, District & Sessions Judge, Ahmedabad (Gujarat).

7. It is noted that defendant nos.3 and 4 after service had appeared in the suit, but thereafter they have not appeared. What would be the consequence in law will now be decided by the court where the suit

plaint would be instituted afresh on the suit plaint being returned to the plaintiff.

8. In view of the above, the suit plaint is returned to the plaintiff under Order 7 Rule 10A CPC. The Registry will return the plaint to the plaintiff within a period of two weeks from today. This Court exercises powers under Order 7 Rule 10A CPC and plaintiff and defendant nos.1 and 2 are directed to appear before the Principal, District & Sessions Judge, Ahmedabad (Gujarat) on 25th July, 2016. The Principal, District & Sessions Judge, Ahmedabad (Gujarat) in accordance with law will thereafter mark the plaint and the suit to a competent court for disposal.

VALMIKI J. MEHTA, J

APRIL 27, 2016
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