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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (OS) 1529/2013

NITICO BUILDERS PVT LD & ANR Plaintiffs
Through: Mr. Ashish Garg, Advocate.

versus

RAMPAL JINDAL & ORS Defendants
Through: Mr. Vidit Gupta, Advocate for LR's of
D-1 & D-2.

CORAM: JUSTICE S.MURALIDHAR

ORDER

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29.08.2016

IA No. 4054/2016 (u/O VI R 17 CPC) & CS (OS) 1529/2013

1. This is an application filed by the Plaintiffs seeking amendment to the plaint enhancing the valuation and further asking for damages.
2. Learned counsel for the Defendants submits that the present application is not maintainable in this Court and the same ought to have been filed before the concerned District Court.
3. Learned counsel for the Plaintiffs relies upon the decision of this Court in *Kamal Sharma v. Blue Coast Infrastructure Development Private Limited 229 (2016) DLT 438* and states that this application should be decided by this Court itself. There is an important distinction between the facts of the case in *Kamal Sharma (supra)* and the present case. As noticed in para 45 of the abovesaid judgment, the application seeking amendment had been filed by the Plaintiffs therein on 27th August 2015, i.e., much prior to the notification of the Delhi High Court

(Amendment) Act, 2015

4. In terms of Section 4 of the Delhi High Court (Amendment) Act, 2015 (DHC Amendment Act) read with High Court's Office Orders dated 24th November, 2015 and 25th July 2016, this suit is required to be transferred to the subordinate Civil Court of appropriate jurisdiction.

5. Recently this Court has in ***Hitender Shokeen v. Om Prakash Shokeen*** (order dated 17th August 2016 in CS (OS) 1357 of 2013), referred to the decision in ***Lok Kalyan Samiti v. Jagdish Prakash Saini 1995 (33) DRJ 290*** wherein under similar circumstances, the Court rejected an application seeking amendment to the plaint filed before this Court only to enhance the valuation of the suit with a view to retaining the suit in this Court. It was pointed out by the Court in that case that the proposed amendment was only to circumvent the amendment to the Delhi High Court (Amendment) Act of 1991 and that granting the said prayer would defeat the purpose of the Amendment Act .

6. In terms of the DHC Amendment Act which was notified on 26th October 2015, read with Office Order dated 24th July, 2016 issued by the High Court, the present suit which is not a commercial dispute as defined under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 and which has been valued at less than Rs. 2 crores now falls in the jurisdiction of the appropriate subordinate court. From 26th October 2015 onwards, therefore, this Court cannot retain the present suit in its jurisdiction.

7. It is not possible for this Court to entertain IA No. 4054 of 2016 seeking amendment to the plaint as it has been filed on 28th March 2016. The said application will have to be considered by the appropriate

subordinate court.

8. The suit along with all pending applications is transferred to the District Judge, Karkardooma Court, Shahdara, Delhi.

9. List before the District Judge, Karkardooma Court, Shahdara on 20th September 2016 for directions.

S.MURALIDHAR, J

AUGUST 29, 2016

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