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

+ TR.P.(C.) 57/2016 and

BASANT LAL JAIN

..... Petitioner

Through None.

versus

SULTAN SINGH

..... Respondent

Through Mr.K.N.Popli and Mr.Inderjeet
Sisodia, Advocates.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **14.09.2016**

Review Petition No. 388/2016 in TR.P(C) 57/2016

This matter is taken up today as 13.09.2016 was declared a holiday on account of Eid.

The present petition is filed under Section 114 CPC for review of an order dated 05.08.2016 by which order this court had transferred the Rent Appeal No. 18 of 2016 pending before the Rent Control Tribunal, Rohini Courts, Delhi to District Judge (North), Rohini Courts, Delhi.

Learned counsel appearing for the review petitioner/respondent submits that the appeal titled as **Basant Lal Jain vs. Sultan Singh** filed under Section 38 of the DRC Act is already pending before the District Judge (North) Rohini Courts, Delhi. He submits that it is appropriate to transfer the same to District Judge (North West), Rohini Courts, Delhi. Learned counsel further submits that his case is suffering as the keys of the property have been deposited in the court and he is unable to proceed further in the matter on account of pendency of this appeal.

Notice was served of this petition on the petitioner. None is present

for him.

A perusal of the transfer petition shows that there is no clarity as to where the appeal has been filed. In para 4 it is stated that the appeal has been filed before the learned District Judge/Rent Control Tribunal (North West). Similarly, in para 6, the same averment is made. In the prayer clause, it is urged that the appeal be transferred and heard by District Judge (North) Rohini Courts, Delhi or any other learned District Judge for disposal.

This court on 05.08.2016 had transferred the case to be heard by District Judge (North), Rohini Courts, Delhi.

Learned counsel appearing for the respondent/applicant emphatically submits that the appeal is already pending before the District Judge (North), Rohini Courts and there is no District Judge there which is the basis of filing of the present petition.

There appears to be merit in the contention of the learned counsel for the respondent. In the stay application filed by the petitioner i.e. CM No. 23181/2016, the petitioner seeks stay of the proceedings of the appeal pending before the District Judge (North), Rohini Courts, Delhi.

In view of the above, there is clear error apparent on the face of the record. The matter is already pending before the District Judge (North), Rohini Courts, Delhi cannot be transferred to the same court. Order dated 05.08.2016 is modified. The appeal shall be transferred to District Judge (North West), Rohini Courts, Delhi. The parties to appear before the concerned court on 05.10.2016.

The petition stands disposed of.

JAYANT NATH, J

SEPTEMBER 14, 2016/rb