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

Reserved on: 05.08.2016

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Pronounced on: 23.11.2016

+ TR.P.(C.) 68/2016

DR MANJULA PATHAK KRIPPENDORF Petitioner

Through petitioner in person

versus

ANAND PRAKASH & ANR Respondent

Through Mr.Sajan Narain, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. The present petition is filed under section 24(b) CPC seeking to transfer the suit filed by the respondent from the Court of District Judge/South to the appropriate court of District Judge/South East.

2. The respondents have filed a suit for permanent injunction to restrain the petitioner from entry and ingress into the property B-56, Defence Colony, New Delhi through the external gates etc. The suit was originally filed in the High Court.

3. As per the Transfer Petition filed by the petitioner it is stated that on 29.4.2016 an application was adjudicated under Order VII Rule 11 CPC regarding the jurisdiction of the Court to hear the matter. It is further stated that the concerned Civil Court No.4, South District has no territorial jurisdiction as per order of the High Court of Delhi vide order No.06/DHC/Gaz./G-3/VI-E 2(a) 2013 dated 19.2.2013 which took effect from 1.3.2013. Some other averments are also made in the petition about a

particular Civil Judge not willing to adjudicate the case for personal reasons etc. The essence of the submission is that the Courts of South District do not have jurisdiction and that whatever proceedings have taken place after 1.3.2013 are without jurisdiction. Hence, the prayer to transfer the matter to the appropriate Court of District Judge, South West.

4. The respondents have filed their reply. They have taken various objections to the present Transfer Petition, namely,:-

(i) That as per order dated 29.4.2016 of the Court of Shri Vishal Pahuja, Civil Judge, South, Saket Courts the application of the petitioner under Order VII Rule 11 CPC stating that the court has no territorial jurisdiction to try the suit was dismissed holding that the matter pertains to the year 2010 and no such objection has been taken in the written statement about territorial jurisdiction and now after almost 6-7 years the present plea is taken which cannot be taken into account. The said order dated 29.4.2016 has not been challenged in any other court.

(ii) The Notification relied upon by the petitioner dated 19.2.2013 does not in any manner help the petitioner. The said notification only provides that cases pending in Transferor/abolished courts which have not been specifically assigned in the Notification shall be assigned by the concerned District and Sessions Judge to other Courts of competent jurisdiction to ensure equal pendency. The Notification makes no change regarding the present case which at that time was pending in the Court of Ms.Shreya Arora, Civil Judge-I, South, Saket.

(iii) the petitioner has all along willingly subjected herself to the jurisdiction of the court of Ms.Shreya Arora, Civil Judge-I, South District, Saket.

(iv) The erstwhile District and Sessions Judge, Saket Court having taken note of the report of Ms.Shreya Arora, Civil Judge transferred the suits to Ms.Ritu Singh, Civil Judge, South District which order dated 10.5.2013 has not been challenged in any manner.

(v) Various transfer applications including TRP(C) 2/2013 was dismissed by Ms.Renu Bhatnagar, Officiating District and Sessions Judge, South East District, Saket Courts on 7.5.2013 and TRP(C) No.5/2014 was dismissed as withdrawn before District and Sessions Judge/South East, Saket Courts on 20.2.2014. On 13.3.2014 TRP (C) No.7/2014 was dismissed by the District and Sessions Judge.

5. I have heard the petitioner who appears in person. She has vehemently argued that the ground for transfer is that the said Court lacks territorial jurisdiction. She has also pointed out that she is a senior citizen and under section 22 of the Senior Citizen Act no civil court has jurisdiction to entertain the matter.

6. As far as the territorial jurisdiction aspect is concerned, the petition lacks clarity as to how in terms of Notification dated 19.2.2013 the matter has to be transferred to South East, District. Paragraphs 5 and 6 of the said Notification reads as follows:-

“5. Fresh cases or matters shall be presented to filed in or allocated in accordance with the jurisdiction assigned to the respective courts.

6.Such cases pending in the transferor/abolished courts, as have not been specifically assigned as above, shall be assigned by the concerned District & Sessions Judge to other courts of the competent jurisdiction so as to ensure equal pendency.”

7. Hence, fresh cases are to be presented in accordance with the jurisdiction assigned to the respective Courts. It is only cases pending in transferor/abolished courts which have not been specifically assigned in the Notification and will be assigned to the Courts of competent jurisdiction by the concerned District and Sessions Judge to ensure equal pendency. At serial No.232 of the Notification is the Court of Ms.Shreya Arora where the case in question was pending on that date. The Notification notes “No change” in front of the said entry.

8. In view of the fact that the very basis for moving this application is misplaced, I need not go into the other submissions made by the respondent about the orders passed by the Civil Judge in an application under Order VII Rule 11 CPC filed by the petitioner and various orders passed by the District Judge in the various Transfer Applications filed.

9. The present petition is without merits and is dismissed. All pending applications also stand disposed of.

(JAYANT NATH)
JUDGE

NOVEMBER 23 , 2016

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