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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA(OS) 91/2015 and CM Nos. 21148/2015, 21151/2015
M/S ANAND BOOKS INTERNATIONAL PRIVATE LIMITED &
ANR Appellant

Through: appearance not given.

versus

M/S GENERAL MOTORS INDIA PRIVATE LIMITED & ORS
..... Respondents

Through: Mr Vipin Singhanian, Adv for
Respondents 1, 4 and 5.
Mr Sudhir K. Saneja, Adv. for R-3.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **21.03.2016**

The appeal is directed against an order of the learned Single Judge rejecting the plaint under Order 7 Rule 11 of Code of Civil Procedure. The learned Single Judge was of the opinion that the pleadings and documents read as a whole did not disclose the cause of action.

This Court has heard the counsel for the parties. The appellant had submitted that the Chevrolet SUV purchased from M/s Auto Vikas Sales and Service Pvt. Ltd. (the second defendant), was defective and it had undergone several repairs. The counsel for the defendant on the other hand urged that taken in totality, the plaintiff had accepted their

offer of repair of vehicle subject to payment of cost. In these circumstances, he was foreclosed from seeking damages.

After hearing counsels for the parties, the Court was of the opinion that the circumstances of the case were that the pleadings and materials were not so as to conclude that the pleadings were bereft of cause of action. The contesting defendant nos. 1,4 and 5 (who had moved an application for rejection of the suit and obtained instructions in this regard) through their counsel submitted that the matter may be remitted for trial. In these circumstances, the impugned judgment is hereby set aside. The parties are directed to be present before the concerned Judge according to Roster. The learned Single Judge shall proceed with the suit at the stage when the impugned judgment rejecting the plaint was delivered. The parties shall appear before the Registrar having regard to the fact that the suit will have to be transferred to a Court empowered to exercise jurisdiction.

Nothing stated in this order shall be construed as an expression on the merits of the *interse* disputes between the parties in the suit.

List before the Registrar on 06.04.2016.

The appeal is allowed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 21, 2016

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