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

+ CS(OS) 1310/2002

INDU BALA MALHOTRA & ORS. Plaintiffs

Through: Mr. S.C. Anand, Adv.

Versus

VIJAT DIXIT AND ORS. Defendants

Through: Mr. R.V. Sinha and Mr. A.S. Singh,
Adv. for D-7&8 UOI.
Mr. Rakesh Mittal, Adv. for D-9.
Mr. Sanjeev Sindhwani, Sr. Adv. with
Mr. Amitabh Marwah, Adv. for D-12.

Mr. P.R. Chopra, Adv. for D-15.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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14.02.2017

1. The counsel for the plaintiffs states that owing to the plaintiffs having given up defendant No.5 and which was allowed on 19th July, 2016, the suit insofar as for the relief of partition of immovable property does not survive and the only relief which survives in the suit is of recovery of Rs.54 lakhs odd and thus this suit as it stands now is below the enhanced minimum pecuniary jurisdiction of this Court and in accordance with the Office Order dated 24th November, 2015 of Hon'ble the Chief Justice of this Court in exercise of powers under Section 4 of the Delhi High Court (Amendment) Act, 2015 is liable to be transferred to the Subordinate Courts. He further

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states that though he should have applied for amendment of the plaint but owing to his illness could not apply for amendment of the plaint.

2. A perusal of para 179 of the plaint shows that the valuation of the suit done by the plaintiffs was at Rs.54,05,000/-. The counsel for the plaintiffs states that that was the value of the plaintiffs 1/4th share in the property and the total value of the property for the purposes of jurisdiction was four times thereof i.e. above Rs.2 crores. However, he further states that the relief of partition claimed in the suit does not survive and the only relief the plaintiffs desire to claim in the suit is of recovery of Rs.54 lakhs odd and the reliefs which survives are valued less than Rs.2 crores.

3. The senior counsel for the defendant No.12 states that the reliefs claimed in the plaint are contradictory for which even the cause of action has not accrued to the plaintiffs till now.

4. The only other counsels namely the counsels for defendants No.7&8, defendant No.9 and defendant No.15 state that they have nothing to state as far as with respect to the prayer today made of transfer of the suit.

5. On the own statement of the counsel for the plaintiffs and holding that the valuation of the suit for the reliefs for which it survives is below the enhanced minimum pecuniary jurisdiction of this Court, the suit in accordance with the Office Order aforesaid is transferred to the Subordinate Courts.

6. The counsel for the plaintiffs, on enquiry, states that the property qua which relief survives in the suit is situated at East of Kailash, New Delhi

which falls in District (South-East), Saket Court Complex, New Delhi. He further states that a Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act) proceedings filed by defendant No.15 are also pending in District (South-East), Saket Court Complex, New Delhi.

7. Accordingly, the suit is transferred to the District Judge (South-East), Saket Court Complex, New Delhi.

8. It is informed that the PP Act proceedings are listed on 28th February, 2017.

9. The parties to appear before the Additional District Judge / District Judge (South-East), Saket Court Complex, New Delhi on 28th February, 2017.

10. The Registry to ensure that the suit file is transferred before the said date.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 14, 2017

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