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

+ CS(OS) 1745/2003

SNEH PROPERTIES P. LTD.

..... Plaintiff

Through: None.

Versus

NOBLE MOULDS P. LTD. & ANR

..... Defendants

Through: Ms. Shalini Singhal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.04.2017

1. None appears for the plaintiff.
2. Ms. Shalini Singhal, Advocate appears but save for stating that Mr. Ajay Jain, Advocate is his senior, does not know anything about the case and when asked has put forward the defendant No.2 Mr. Sarbjit Singh present in Court. Mr. Ajay Jain, Advocate is stated to be in the Supreme Court.
3. If the Advocate engaged is unable to appear, he should at least prepare the proxy counsel sent on his behalf. Once Mr. Ajay Jain, Advocate accepted the brief, there is no reason to delay the matter in such a manner.
4. A perusal of the file shows the suit to be for recovery of Rs.39,59,697/- and to have been instituted in this Court and pending at the stage of plaintiff's evidence.

5. Vide order dated 11th January, 2016 of Mr. Anil Kumar Sisodia, Joint Registrar (Judicial) transferred the suit in terms of Notification dated 24th November, 2015 and orders of Hon'ble the Chief Justice to the District Judge and the suit on such transfer was assigned to the Court of Ms. Manjusha Wadhwa, Additional District Judge (ADJ)-08, West District, Delhi.

6. However, the learned ADJ vide order dated 5th May, 2016, referring to the Notification dated 28th April, 2016 and observing that the present suit was a commercial suit and liable to be sent back to this Court, ordered the suit to be placed before the District Judge, West District, Delhi.

7. Mr. R.P.S. Teji, Officiating District & Sessions Judge (West), Delhi vide order dated 19th May, 2016, again referring to the Notification dated 28th April, 2016, sent back the suit to this Court.

8. A perusal of the order sheet shows that none appeared on behalf of the plaintiff before the ADJ or before the District Judge or before the Joint Registrar (Judicial) of this Court, after the matter was received back.

9. Mr. Anil Kumar Sisodia, Joint Registrar (Judicial) on receipt back of the matter, notwithstanding the fact that he only had transferred the suit to the District Court, in the absence of the plaintiff, proceeded to close the evidence of the plaintiff on 9th November, 2016 and listed the matter for defendant's evidence on 23rd February, 2017 and recorded the statement of the defendant No.2 on 23rd February, 2017 in the absence of the plaintiff and has posted the suit, on conclusion of evidence, before this Bench for today.

10. The Notification dated 28th April, 2016 is with reference to the suits covered by the first proviso to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015. The said proviso refers to the suits relating to commercial disputes stipulated by an Act to lie in a Court not inferior to a District Court. The present suit for recovery of Rs.39,59,697/- is on account of construction work done by the plaintiff for the defendant and such a suit is not stipulated to lie in a court not inferior to a District Court. There appears to be a general misconception with respect to the Notification dated 28th April, 2016.

11. A copy of this order be forwarded to Ms. Manjushah Wadhwa, (ADJ)-08, West District, Delhi, Mr. R.P.S. Teji, Officiating District & Sessions Judge (West), Delhi and Mr. Anil Kumar Sisodia, Joint Registrar (Judicial) aforesaid.

12. Be that as it may, the plaintiff does not appear to be interested in this suit since it was transferred on 11th January, 2016.

13. Dismissed in default.

RAJIV SAHAI ENDLAW, J.

APRIL 27, 2017

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