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

+ **TR.P.(C.) 30/2017**

SHEETAL DAWER

..... Petitioner

Through: Proxy counsel for the petitioner.

versus

KRISHNA RANI DAWER & ANR

..... Respondents

Through: Mr. Dinesh K. Chawla, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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26.10.2017

1. This petition under Section 24 of the Code of Civil Procedure, 1908 (CPC) seeks transfer of civil case bearing no.210766/2016 titled ***Krishna Rani Dawer Vs. Sheetal Dawer*** and counter claim bearing no.211810/2016 pending in the Court of Shri Pooran Chand, Additional District Judge (South-East), Saket District Court to this Court.
 2. The petition was entertained and notice thereof ordered to be issued.
 3. A reply has been filed by the respondents to the Transfer Petition and to which a rejoinder has been filed by the petitioner.
 4. However the counsel for the petitioner then states that rejoinder remained to be filed and on asking has handed over copy of the rejoinder in the Court. The said rejoinder is found to be the same as rejoinder on record.
 5. The counsel for the petitioner then seeks adjournment on the ground of the arguing counsel being before the Supreme Court.
 6. Transfer Petitions, and owing to pendency whereof, notwithstanding there being no interim order, dates are sought in the suits / proceedings of which transfer is sought, cannot be kept pending in this fashion. The counsel
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for the petitioner has thus been asked to argue.

7. The counsels have been heard.
 8. The respondent no.1 Krishna Rani Dawer instituted the suit aforesaid, in this Court, for partition of an immovable property, against the petitioner. The petitioner along with his written statement to the said suit, also filed a counter claim for partition of as many as 41 properties.
 9. On enhancement of minimum pecuniary jurisdiction of this Court, the suit as well as counter claim which were till then pending in this Court, were transferred to the District Courts.
 10. The petitioner has moved this petition stating that though the valuation for the purposes of jurisdiction of the suit filed by the respondent no.1 Krishna Rani Dawer was below the enhanced minimum pecuniary jurisdiction of this Court but the valuation of the counter claim filed by the petitioner was in excess of the enhanced minimum pecuniary jurisdiction of this Court and the suit and the counter claim have been wrongly transferred to the District Court.
 11. Though the remedy of the petitioner against the error if any committed in the order of transfer was to take steps to challenge the same but the respondents in their reply have pleaded that the learned Additional District Judge to whom the suit and counter claim were assigned has already segregated the two and ordered the return of the counter claim to this Court for being tried as a separate suit.
 12. Though neither the counsel for the petitioner nor the counsel for the respondents have placed the said order of the learned Additional District Judge before this Court and are not carrying the same today also but there is
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no reason to doubt the stand taken on oath and the statement made by the

counsel for the respondents at bar.

13. It is the plea of the respondents that the petitioner, being the son of the respondent no.1 Krishna Rani Dawer, has filed the counter claim with respect to as many as 41 properties, merely to delay the suit for partition of a single property filed by the respondent no.1 Krishna Rani Dawer.

14. The possibility of the same cannot be ruled out.

15. Be that as it may, the counter claim, on account whereof transfer is sought having already been ordered to be segregated, no case for transfer is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 26, 2017

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