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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ TR.P.(C.) 65/2017

M/S GRIP INDIA

..... Petitioner

Through: Mr.C.Mukund & Mr.Gaurav
Kr.Singh, Advocates

versus

M/S SUPER SEALS INDIA LIMITED & ANR

..... Respondents

Through: Mr.Nakul Jain, Advocate for R-1.

AND

+ TR.P.(C.) 67/2017

M/S SOS OIL SEALS PRIVATE LIMITED

..... Petitioner

Through: Mr.C.Mukund & Mr.Gaurav
Kr.Singh, Advocates

versus

M/S SUPER SEALS INDIA LIMITED

..... Respondent

Through: Mr.Nakul Jain, Advocate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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31.05.2017

1. The above captioned transfer petitions i.e. TR.P.(C) No.65/2017 & TR.P.(C) No.67/2017 have been filed by the petitioners praying for issuance of directions for re-transferring Civil Suit No.73/2016 (New No.9154/2016)

TR.P.(C.) 65/2017 & 67/2017

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titled as '*Super Seals India Ltd. vs. SOS Automotive Components Pvt. Ltd.*' and Civil Suit No.74/2016 (New No.9046/2016) titled as '*Super Seals India Ltd. vs. SOS Oil Seals Pvt. Ltd.*' pending before the Court of learned ADJ-03, South-East District, Saket Court to the Commercial Division of High Court of Delhi.

2. Mr.Nakul Jain, Advocate has appeared on behalf of respondent No.1 on advance notice of TR.P.(C) No.65/2017 being served. Mr.Nakul Jain, Advocate also accepts notice on behalf of respondent in TR.P.(C) No.67/2017.

3. Heard learned counsel for the parties.

4. Learned counsel for the petitioners submits that the above noted two suits pertain to commercial dispute and were initially filed in the High Court of Delhi. However, after the enhancement of pecuniary jurisdiction of District Court, both the civil suits were sent to the District Court for adjudication. He further submits that on the strength of judicial order dated 15th February, 2016 by this Court in CS(OS) No.1180/2011 & connected matters and in TR.P.(C) No.1/2016 as well the notification No.27187/Delhi High Court/Orgl. Dated 24th November, 2015 by High Court of Delhi which was circulated vide circular No.5456/Delhi High Court/Orgl./2016 dated 28th April, 2016, prayer was made before learned ADJ-03, South East District for sending these two civil suits to High Court of Delhi for disposal by the Commercial Division of High Court of Delhi. The learned ADJ-03, South-East District sent the files to the concerned District Judge for onwards transmission to the High Court of Delhi. However, the learned District Judge, South-East District sent the files back to the Court of learned ADJ-03, South-East District with the direction to proceed further in the matter in

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accordance with law. Learned counsel for the petitioners submit that in the given circumstances, the petitioners were constrained to file these two transfer petitions as no other option was left with the petitioner but to approach this Court with the above prayer.

5. Mr.Nakul Jain, learned counsel for the respondent M/s.Super Seals India Limited submits that he has no objection if the above noted two civil suits are re-transferred to the Commercial Division of High Court of Delhi in view of the judicial order dated 15th February, 2016 passed by this Court in CS(OS) No.1180/2011 & connected matters and in TR.P.(C) No.1/2016 as well the notification No.27187/Delhi High Court/Orgl. Dated 24th November, 2015 by High Court of Delhi which was circulated vide circular No.5456/Delhi High Court/Orgl./2016 dated 28th April, 2016.

6. The Co-ordinate Bench of this Court while disposing of CS(OS) No.1180/2011 & connected matters vide order dated 15th February, 2016 has held in para 12 as under:-

'12. Keeping in mind the original intendment of Section 7, and the words as now found in the first proviso to Section 7 of the Act of 2015, one is left in no manner of doubt that with respect to IPR matters, whose statutes and the provisions are reproduced in the above chart, such matters once they are pending in the High Court as on the date of introducing of the Act of 2015 published in the Gazette Notification dated 1.1.2016, such matters will be heard and disposed of by the Commercial Division of the High Court even if the pecuniary jurisdiction of these matters are below ₹1 crore.'

7. The transfer petition bearing TR.P.(C) No.1/2016 was allowed vide order dated 15th February, 2016 by passing the following order:

'This transfer petition stands allowed in terms of the prayer made therein and the suit which has been transferred to the concerned jurisdictional District Court will be re-transferred to this Court.'

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8. The Circular No.5456/Delhi High Court/Orgl./2016 dated 28th April, 2016 issued by High Court of Delhi reads as under:-

'IN THE HIGH COURT OF DELHI AT NEW DELHI

No 5456/DHC/Orgl/2016

Dated: 28.04.2016

CIRCULAR

Hon'ble the Chief Justice vide Notification dated 28th April, 2016 has been pleased to order issuance of the following addendum to Notification No. 27187/Delhi High Court/Orgl. dated 24.11.2015:-

"All suits and applications covered by the first proviso to Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 filed or pending as on 26.10.2015 on the Original Side of the Delhi High Court, shall remain in the Delhi High Court and shall be heard and disposed of by the Commercial Division of Delhi High Court."

In terms of the said addendum, all suits and applications relating to commercial disputes stipulated by an Act to lie in a Court not inferior to a District Court, which have been transferred to the District Courts pursuant to the Notification No.27187/Delhi High Court/Orgl. dated 24.11.2015 shall be recalled back to the Delhi High Court for being heard and disposed of by the Commercial Division of Delhi High Court. Parties to such suits or applications may also approach the concerned District Courts for sending such suits or applications to Delhi High Court for disposal by the Commercial Division of Delhi High Court. All such suits and applications that shall be recalled, on receipt from the District Courts, in the first instance shall be listed before the Joint Registrars for fixation of dates for listing before the Commercial Division of the Delhi High Court.

Sd/-

Registrar General

28.04.2016.'

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9. In view of the submissions made by learned counsel for the parties and the judicial order passed by this Court in in CS(OS) No.1180/2011 & connected matters and in TR.P.(C) No.1/2016 as well the notification No.27187/Delhi High Court/Orgl. Dated 24th November, 2015, which have been extracted above, both the transfer petitions are allowed.

10. The Civil Suit No.73/2016 (New No.9154/2016) titled as '*Super Seals India Ltd. vs. SOS Automotive Components Pvt. Ltd.*' and Civil Suit No.74/2016 (New No.9046/2016) titled as '*Super Seals India Ltd. vs. SOS Oil Seals Pvt. Ltd.*' are withdrawn from the Court of learned ADJ-03, South-East District, Saket Court and re-transferred to this Court.

11. Both the petitions are disposed of in above terms.

12. A copy of this order be sent to the concerned Court through concerned District Judge for information and compliance and be also given dasti to learned counsel for the parties, as prayed.


PRATIBHA RANI, J.

MAY 31, 2017

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