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

+ **TR.P.(C.) 45/2016 & CM No.11911/2016 (for stay)**

HAR KISHAN

..... Petitioner

Through: Mr. S.K. Bhaduri with Mr. Prem
Prakash & Ms. Vandana, Advs.

Versus

SURESH KUMAR & ANR

..... Respondents

Through: Ms. Anju Gupta & Mr. Roshan Lal
Goel, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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30.10.2017

1. Transfer, in exercise of powers under Section 24 of the Code of Civil Procedure, 1908 (CPC), is sought of Civil Suit No.145/2013 titled "Suresh Kumar Vs. Harkishan & Anr." from the Court of Sh. Sumedh Kumar Sethi, JSCC-ASCJ-cum-Guardian Judge at Dwarka Courts, New Delhi to the District South, Saket Courts, New Delhi for the reason of old age of the petitioner / defendant and for the reason of the property subject matter of suit being situated in District South.
2. Notice of the petition was ordered to be issued.
3. The counsel for the respondent no.2 has no objection.
4. The counsel for the respondent no.1 however has objection to the transfer sought and has filed a counter affidavit. It is controverted that the property is situated in the territorial jurisdiction of Saket Courts, New Delhi and it is contended that the petitioner / defendant who had sought transfer has since expired and has been substituted by his widow, sons and daughters and thus the aforesaid ground has also disappeared.

5. The counsel for the petitioner / defendant controverts that the property is situated in the territorial jurisdiction of Dwarka Courts, New Delhi. It is also contended that the widow of the deceased petitioner / defendant is also over 75 years of age.

6. The widow of the deceased petitioner / defendant being a defendant along with her sons would not necessarily have to personally appear on each and every date of hearing.

7. As far as the objection on the ground of territorial jurisdiction is concerned, it will be open to the petitioner / defendant to take the plea of the Courts at Dwarka, New Delhi not having territorial jurisdiction to try the suit and if the Court finds merit therein, would pass appropriate orders thereon; else the petition is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 30, 2017

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