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

+ **TR.P.(C) 20/2016**

SMT SUSHIL MARWAH Petitioner
Through Mr Deepak Dhingra, Advocate.
versus

SHRI RAJESH KUMAR GUPTA Respondent
Through None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.02.2017**

IA No.4977/2017

Allowed, subject to all just exceptions.

The application is disposed of.

TR.P.(C) 20/2016

None appears for the respondent. It is seen that none has appeared on behalf of the respondent on the previous two occasions as well.

This is a petition seeking transfer of suit being CS (OS) 2337/2014 pending before the court of learned District Judge (North West), Rohini Courts to this court. The principal ground for seeking such transfer is that the plaintiff has filed another suit - CS (OS) 3714/2014 - which is pending in this court.

The disputes between the parties stem from a collaboration agreement dated 15.04.2012 whereby the defendants had undertaken to develop the property of the plaintiff and in consideration were entitled to the second floor of the said property. The suit currently pending before the learned District Judge Rohini - which is sought to be transferred to this

court - is for a injunction restraining the defendants from interfering with the suit property of the plaintiff as it is alleged that the defendants have breach the collaboration agreement. It is seen that on the same cause of action the petitioner has also filed another suit being CS (OS) 3414/2014 seeking damages for breach of the collaboration agreement in question. The learned counsel for the petitioner has drawn the attention of this court to the order dated 08.2.2014 passed in CS (OS) 2337/2014 whereby the plaintiff's application under Order II Rule 2 CPC was allowed and the plaintiff was permitted to seek compensation by way of damages by way of a separate suit. It is stated that the CS (OS) 3714/2014 has been filed pursuant to the said order.

It is apparent from the above that the controversy in both the suits is between the same parties and stems from the same transaction. Substantial part of the evidence would also be common. Accordingly, the present petition is allowed and CS (OS) 2337/2014 is directed to be transferred to this court to be heard and tried along with CS (OS) 3714/2014.

The petition is disposed of.

VIBHU BAKHRU, J

FEBRUARY 03, 2017

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