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

+ **TR.P.(C.) 74/2017**

DR SUDESH BAHL DHALL & ANR Petitioners

Through: Mr. A P Vinod, Advocate

versus

ANIL SARIN & ORS Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **23.10.2017**

1. Consolidation, in exercise of powers under Section 24 of the Code of Civil Procedure, 1908 (CPC) is sought of CS No. 57144/16 titled Dr. (Mrs.) Sudesh Dhal Behl & Another vs. Mr. Anil Sarin & Others pending in the Court of Ms. Rekha, ADJ, Patiala House Courts, New Delhi along with CS No. 12478/16 titled Dr. (Mrs.) Sudesh Dhal Behl & Another Vs. Mr. Anil Sarin & Others, pending in the Court of Ms. Kamini Lau, ADJ, Tis Hazari Courts, Delhi.

2. Notice of the petition was ordered to be issued. The respondent nos.1,2,4,5,6,8&9 are reported to be served. The other respondents remain un-served. However, the counsel for the petitioners states that the affidavit of service of all the respondents has been filed.

3. None appears for the respondents.

4. There is no reason to doubt the statement of the counsel for the petitioners of having served all the respondents.

5. The respondents are proceeded against ex parte.

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6. The counsel for the petitioners states that the suit pending in the Patiala House Courts is a suit for injunction initially filed in this Court and transferred to the subordinate Courts on enhancement of minimum pecuniary jurisdiction of this Court; the said suit has been filed for injunction to protect the trust properties and there is an interim injunction in the said suit.

7. It is further stated that the suit pending in the Tis Hazari Court is under Section 92 of the CPC and parties in both the suits are the same.

8. At the outset, I may state that consolidation of two suits is beyond the purview of Section 24 of the CPC, in exercise of powers whereunder, this Court can only transfer the suit from one Court to another and it is for the Suit Court to decide whether to proceed with the two suits separately or to consolidate the same for the purpose of trial.

9. I have even otherwise inquired from the counsel for the petitioners that the suit under Section 92 of the CPC having been filed after the institution of the suit for injunction, what is the need to continue with the suit for injunction.

10. A prayer for transposition of interim injunction in force can always be made in the suit under Section 92 of the CPC.

11. Be that as it may, the petition is allowed.

12. The suit sought to be transferred is ordered to be transferred.

13. The Transferor Court to forthwith physically transfer the suit file.

14. The parties to appear in the transferred suit before the Transferee Court on 6th November, 2017, when the suit already being in the Transferee Court is stated to be listed.
15. The petition is disposed of.
- No costs.

OCTOBER 23, 2017
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RAJIV SAHAI ENDLAW, J