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

+ TR.P.(C.) 110/2016

SHANKAR LAL SAINI

..... Petitioner

Through: None.

versus

MAMTA RANI PATHAK & ORS

..... Respondents

Through: Mr.Sidharth Joshi and Ms.Sumistha,
Advocate for R-2/MCD.
Mr.Sunil Malhotra and Mr.Rajat
Malhotra, Advocates for R-3
alongwith W/SI Monu Chauhan.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
16.05.2017

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1. By filing the instant transfer petition, the petitioner is praying that RCA No.66/2016 titled as *Shankar Lal Saini vs. Smt.Mamta Rani Pathak & etc.* ' alongwith Trial Court Record of Civil Suit No.426/2012 be transferred from the Court of learned District Judge, East District, Karkardooma Court, Delhi to the Court of learned District Judge, Shahdara District, Karkardooma Court, Delhi as the territorial jurisdiction to entertain the said appeal is vested with the Court of learned District Judge, Shahdara District, Karkardooma Court, Delhi.

2. None has appeared on behalf of the petitioner. Learned counsel for the respondents No.2 and 3 are present, however, none has appeared on behalf of the respondent no.1 despite service.

3. Perusal of the record shows that when the issue of territorial jurisdiction to entertain the above noted appeal was raised before learned District Judge, East District, Karkardooma Court, Delhi, the case was sent to the Court of learned District Judge, Shahdara District, Karkardooma Court, Delhi by learned District Judge, East District on 4th May, 2016. However, the learned District Judge, Shahdara District returned the file vide order dated 13th May, 2016 for the reason that only the High Court of Delhi has the jurisdiction to transfer a case from one district to another district.

4. Learned counsel appearing on behalf of respondents No.2 and 3 have admitted that the subject matter of the appeal falls within the jurisdiction of Shahdara District and they have no objection if the prayer of the petitioner to transfer the appeal pending in the Court of learned District Judge, East District, Karkardooma Court, Delhi to Shahdara District is allowed.

5. In view of the submissions made by learned counsel for the respondents No.2 and 3 and the admitted position that the subject matter falls within the jurisdiction of Shahdara District, RCA No.66/2016 titled as *Shankar Lal Saini vs. Smt.Mamta Rani Pathak & etc.* ' is withdrawn from the Court of learned District Judge, East District, Karkardooma Court, Delhi and assigned/transferred to the Court of learned District Judge, Shahdara District, Karkardooma Court, Delhi with direction to try the appeal himself/herself or assign the same to the Court having jurisdiction to try and decide the appeal.

6. Parties are directed to appear before the Court of learned District Judge, Shahdara District, Karkardooma Court, Delhi on 5th July, 2017.

7. Case file of RCA No.66/2016 titled as *Shankar Lal Saini vs. Smt.Mamta Rani Pathak & etc.* ' alongwith Trial Court Record of Civil Suit

No.426/2012 be sent to the Court of learned District Judge, Shahdara District before 5th July, 2017.

8. The transfer petition is allowed.

9. As copy of this order be sent to the Courts concerned for information and compliance and be also given dasti to the parties, as prayed.

PRATIBHA RANI, J.

MAY 16, 2017

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