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

+ **TR.P.(C.) 77/2017**

A G GARG

..... Petitioner

Through: Petitioner in person

versus

DHARMENDRA SETHI

..... Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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03.05.2017

CM No.16917/2017

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

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1. The petitioner is seeking transfer of Civil Suit Nos.619/2016 and 294/2016 from the Court of Shri A.S.Jayachandra, District & Sessions Judge, Shahdara District, Karkardooma District Courts, Delhi to any other district in Karkardooma District Court Complex.
2. The grievance of the petitioner is that despite the fact that the petitioner is not willing to enter into any settlement, he co-operated when efforts were made for settlement and the matter was sent to Lok Adalat but no settlement took place. The learned District & Sessions Judge is showing undue haste in the matter as within a span of 2½ months the matter has been

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listed five times and petitioner is being pressurized to vacate the tenanted premises. Even the statement of the parties under Order X CPC has been recorded despite the fact that the two suits (which include counter claim) were fixed for disposal of the applications. When request for adjournment for making statement under Order X CPC was made it was not granted. Rather threat was given to the petitioner to face contempt proceedings. He was also threatened and coerced to make a statement under Order X CPC which was merely a formality. Rather the learned Judge himself dictated the statement. It is also grievance of the petitioner that instead of disposing of the application now the case has been listed on 6th May, 2017.

3. Learned counsel for the petitioner has submitted that petitioner has lost faith in the Court hence the matter may be transferred to some other Court in Karkardooma District Court complex as there are two other District & Sessions Judges where the two suits can be transferred.

4. Perusal of the copy of the proceedings before the learned District & Sessions Judge which have been filed by the petitioner show that the learned District Judge had made an effort to resolve the matter amicably after hearing both the parties. For that purpose the matter was also sent to Lok Adalat. The statement of the parties recorded under Order X CPC on 11th April, 2017 do not indicate any kind of threat or coercion by the Court rather it seems to have been recorded as per the version of the parties. The statement of the petitioner recorded by learned District Judge reads as under:-

“Statement of Sh.A.G.Garg, S/o late Sh.B.N.Gupta, aged about 42 years R/o 111, Third Floor, Ksheer Sagar Cooperative Group Housing Society, Kailash Apartment, Delhi.

Not on oath

I have seen the original Ex.P1 the lease agreement. I deny first three pages.

I am living in the said premises. I am a tenant under Sh.K.K.Tyagi.

Q. Do you have rent agreement of K.K.Tyagi?

Ans. I have not filed the lease agreement alongwith the written statement.

Q. Have you heard the statement of Sh.Kuldeep Kumar Sethi?

Ans. I have heard.

Q. Are you willing to vacate the premises, if time is granted?

Ans. I need four years.

Q. Are you willing to pay rents to him or not?

Ans. I am willing to pay the rent as per the decision of the Court if the plaintiff allows me to stay for four years.

RO & AC

Sd/-

*District & Sessions Judge
Shahdara District, Delhi/11.04.2017*

Put up this matter for hearing on further orders to be passed under Order 10 Rule 1A by 06.05.2017.

Sd/-

*District & Sessions Judge
Shahdara District, Delhi/11.04.2017"*

5. In the case reported as Jagatguru Shri Shankaracharya Jyotish Peethadhiswar vs. Shri Swaini Swaroopanand Saraswati AIR 1979 MP 50, it was held as under:

'Another factor that has to be taken into consideration is the interest of justice. A case has to be transferred if there is reasonable apprehension of a party to a suit that he might not get justice in the Court where the suit is pending. This may be because the trial Judge is prejudicial or because there in the surcharged atmosphere no fair trial is possible at that place.

This Court in Raghunandan v. G. H. Chawla 1963 MPLJ 117 has held as under:--

"The learned District Judge lost sight of the well recognised position that the question whether the apprehension entertained by an applicant that he might not get justice at the hands of a particular Judge, was a reasonable apprehension or not had to be determined on such material as was on record and on the explanation of the Judge concerned. The onus of establishing sufficient grounds for transfer lay very heavily on the applicant. No account of imaginary suspicion or capricious belief could be permitted to be raised as a ground for transfer. The view, in the circumstances on record, taken by the learned District Judge was as capricious as the feeling of the applicant seeking transfer."

6. Merely because learned Trial Court has made an attempt to get the matter resolved amicably, it being a dispute between landlord and tenant and the petitioner is a tenant in respect of the suit property and willing to stay for a longer period i.e. four years as compared to one year being offered by the landlord, that itself is no justification to transfer the matter to some other Court. It is also relevant to mention here that the petitioner, who is present in person today himself is an advocate, and can avail judicial remedy in case any adverse order being passed.

7. The grounds mentioned in the transfer petition for seeking transfer of Civil Suit Nos.619/2016 and 294/2016 from the Court of learned District & Sessions Judge, Shahdara District, Karkardooma Court to any other district in Karkardooma Court Complex are not such so as to cause reasonable apprehension in the mind of the petitioner of not getting justice from the

Court of learned District & Sessions Judge, Shahdara District, Karkardooma Court, Delhi.

8. The petition has not merits and the same is hereby dismissed.

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Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 03, 2017

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