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

+ **TR.P.(C.) 87/2017 & CM No.20076/2017 (for stay)**

MOHAN ANAND & ANR

..... Petitioners

Through: Mr. Muneesh Malhotra, Ms. Sonali
Rastogi and Ms. Ruja Agarwal, Advs.

Versus

ANIL SAWHNEY & ORS

..... Respondents

Through: Mr. A.K. Wali & Mr. Tuhin, Advs.
for R-1.
Ms. Eshita Baruah, Adv. for Mr.
Gaurang Kanth, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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31.10.2017

1. Transfer, under Section 24 of the Code of Civil Procedure, 1908, is sought of CS No.200/2016—10544/2016 titled *Shri Anil Sawhney Vs. Kapri International Pvt. Ltd. & Anr.* of the Court of Additional District Judge-01, South East, Saket Courts, New Delhi to this Court to be tried along with CS(OS) No.2252/2015 titled *Mohan Anand & Anr. Vs. Anil Sawhney & Anr.* of this Court.

2. Notice of the petition was ordered to be issued and the counsels for respondents No.1&2 appear.

3. Though none appears for respondent No.3 Kapri International Pvt. Ltd. but the said firm was under the control and management of the petitioners and is now stated to be under liquidation. The service of the respondent No.3 is dispensed with.

4. The suit, of which transfer is sought, has been filed for the reliefs of recovery of possession of immoveable property along with *mesne* profits and ancillary reliefs.
5. The suit pending in this Court is a suit for the relief of declaration of the conveyance deed dated 29th December, 1995 executed by Delhi State Industrial Development Corporation Ltd. in favour of respondent No.1 Anil Sawhney in respect of the same property as null and void and for cancellation thereof.
6. I have enquired from the counsel for the petitioners, whether not the purport of the petitioners in filing this petition is to delay the disposal of the suit for recovery of possession of immoveable property filed against the petitioners. Judicial notice can be taken of the fact that disposal of suits before the District Judge/Additional District Judge is much quicker than disposal of suits before this Court.
7. The counsel for the petitioners contends that he is not in a position to say that the disposal of suits before this Court is slower.
8. There is no point in hiding the truth.
9. I have next enquired from the counsel for the petitioners as to what are the common issues in the suits.
10. The counsel for the petitioners states that since he is not the counsel in the suit of which transfer is sought and some other counsel is representing the petitioners, he is not in a position to disclose.
11. Without the petitioners even stating before this Court the reason for transfer, merely on asking, transfer cannot be allowed from a Court of competent jurisdiction, where the suit is pending, to another Court.

12. The counsel for the petitioners then draws attention to the order dated 26th August, 2005 in the suit of which transfer is sought. However, the same nowhere contains anything to show that the two suits need to be decided by the same Court.

13. No ground for transfer has been made out.

14. The counsel for the petitioners then states that the petitioners, in the suit pending in this Court, are challenging the title of the respondent No.1 on the basis of which the respondent No.1 has claimed possession.

15. The counsel for the respondent No.1 states that the suit filed by the petitioners and pending in this Court is palpably barred by time.

16. I may notice that if at all the petitioners feel that the decree for possession, if any, passed against them, is not entitled to be executed for the reason of there being a *prima facie* merit in the challenge to the title of the respondent No.1, in the suit pending before this Court, it will be open to the petitioners to apply in the suit pending in this Court for stay of execution of the decree.

17. There is no merit in the petition.

18. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

OCTOBER 31, 2017

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