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

+ **TR.P.(C.) 119/2016 & CM No.14089/2017 (u/O I R-10 CPC)**

NISHA SHAH & ORS Petitioners

Through: Mr. Anand Sukumar & Mr. Bhupesh
Kumar Pathak, Advs.

Versus

NEERAJ Respondent

Through: Mr. Rajiv Bajaj, Adv.
Ms. Neha Kapoor, Adv. for EICPL.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.08.2017**

1. Transfer is sought of a suit instituted by the respondent and pending in the Patiala House Courts (PHC), New Delhi to the Tis Hazari Courts (THC), Delhi, where a suit filed by the petitioners, not against the respondent herein but against Municipal Corporation of Delhi (MCD) and Engineering & Industrial Corporation Pvt. Ltd. (EICPL) is pending consideration. The petition was entertained and notice thereof ordered to be issued.
2. The counsel for the respondent Ms. Neeraj states that according to him there is no case for transfer but he has no objection if the Tis Hazari suit is brought to the PHC.
3. An application has been filed by EICPL for impleadment in this transfer petition and the counsel for EICPL states that the suit filed by the petitioners in THC has already been dismissed for non-prosecution and only the application for restoration thereof is pending consideration.

4. I have perused the complaints in the two suits. Though it appears from a perusal thereof that the Tis Hazari suit is before the Court of the Civil Judge but the counsel for the petitioner / plaintiff therein and the counsel for the EICPL state that the Tis Hazari suit is also before the Court of Additional District Judge as the suit before the PHC.

5. Though the respondent herein Ms. Neeraj is not even a party to the Tis Hazari suit and it *prima facie* appears that the suits are to be tried separately but since the suits concern overlapping properties, it is deemed appropriate that subject to the restoration of the Tis Hazari suit, the Tis Hazari suit be transferred to the PHC to be tried along with the Patiala House suit.

6. The petition is thus disposed of with the following directions:

- (i) The proceeding in the PHC suit being Civil Suit No.57517/2016 titled Neeraj Vs. Nisha Shah of the Court of Sh. Surinder S. Rathi, Additional District Judge (ADJ) (New Delhi), Patiala House Courts, New Delhi to go on.
- (ii) If the Tis Hazari suit being Civil Suit No.97/2014 titled Nisha Shah Vs. Municipal Corporation of Delhi & Ors. and of the Court of Sh. Sameer Bajpai, ADJ (Central), Tis Hazari Courts, Delhi is restored to its original position, thereafter the same be transferred to the same Court where the Patiala House suit is pending.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

AUGUST 30, 2017/‘gsr’..

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