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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(C.) 140/2016 & CM No.14085/2017 (u/O XXII R-4 CPC)**
M/S SAB PROPERTIES PVT LTD Petitioner

Through: Mr. Vijay Jakhwal, Adv.

Versus

DEVENDER SAIN CHOPRA & ORS Respondents

Through: Mr. Subhash Garg, Adv. for R-6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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17.08.2017

1. Transfer is sought of Suit No.79/2009 titled 'M/s SAB Properties Pvt. Ltd. Vs. Sh. Devender Sain Chopra & Ors.' of the Court of Kuldeep Narain, Additional District Judge (ADJ), District West, Tis Hazari Courts, Delhi to the Court of Mr. Saurabh Kulshrestha, ADJ, District Central, Tis Hazari Courts, Delhi where Suit No.20214/2016 titled 'Mahavir Prasad Mudgal Vs. Manoj Kumar Chopra & Ors.' stated to be listed next on 9th September, 2017 is pending.
2. It is stated that while the suit in the District West, Tis Hazari Courts, Delhi has been filed by the petitioner for specific performance of an Agreement to Sell and in which suit Mahavir Prasad Mudgal is defendant no.6, the suit pending in District Central, Tis Hazari Courts, Delhi has been filed by said Mahavir Prasad Mudgal, also for specific performance of an Agreement to Sell with respect to the same property, albeit of an earlier date than the Agreement to Sell subject matter of the other suit.
3. Transfer Petition was entertained and notice thereof ordered to be issued.

4. The respondents no.1 to 5 and 7 in the transfer petition were reported to be served for 24th April, 2017.
5. None appears on their behalf.
6. The respondent no.6 Mahavir Prasad Mudgal has been appearing through counsel and has also filed a reply to the petition.
7. During the pendency of the petition, the respondent no.7 Smt. Anita Chopra is reported to have died and the petitioner has initiated steps for impleadment of her legal representatives and for which purpose the matter is listed next before the learned Joint Registrar on 23rd October, 2017.
8. The counsel for the respondent no.6 Mahavir Prasad Mudgal states that the subject matter of the two suits, though both for specific performance of Agreement to Sell of the same property, are different agreements and have to be tried separately and there is thus no need for transfer.
9. Per contra, the counsel for the petitioner states that the two suits in two different Courts may lead to conflicting judgments and decrees.
10. On enquiry, it is informed that both suits are at the stage of evidence.
11. On enquiry, it is further informed that steps have been taken in the suits also for substitution of legal representatives of respondent no.7.
12. I am of the view that the consideration of this transfer petition ought not to await substitution of legal representatives of the respondent no.7 as the relevant substitution is to be made in the suit. Thus the petition has been considered today itself.
13. Though this Court, while exercising jurisdiction under Section 24 of the CPC, cannot say whether the two suits should be consolidated or tried together or not as the same is in the domain of the suit Court but some merit

is found in the contention of the counsel for the petitioner, that it being more appropriate that the two suits are tried by the same Court. Moreover, the suit property subject matter of both suits is informed to be situated within the jurisdiction of District Central.

14. The petition is thus allowed.

15. The Suit No.79/2009 titled 'M/s SAB Properties Pvt. Ltd. Vs. Sh. Devender Sain Chopra & Ors.' of the Court of Kuldeep Narain, Additional District Judge (ADJ), District West, Tis Hazari Courts, Delhi is transferred to the Court of District Judge, Central, Tis Hazari Courts, Delhi who is requested to assign the same to the same Court where the other suit in his jurisdiction is pending consideration.

16. The learned ADJ/District Judge (West) is requested to forthwith forward the file of the suit to the Central District, Tis Hazari Courts, Delhi so that the learned ADJ (Central), Tis Hazari Courts, Delhi before whom the suit is listed next on 9th September, 2017, is able to take up the transferred suit also on the same date.

17. The petition is disposed of.

18. The date of 23rd October, 2017 before the Joint Registrar is cancelled.

RAJIV SAHAI ENDLAW, J

AUGUST 17, 2017

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