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

+ **TR.P.(C.) 160/2016**

HEMANT KUMAR AND ANR Petitioners

Through: Mr. Amit Andlay, Adv.

Versus

VINOD PRAKASH SHARMA AND ANR Respondents

Through: Dr. R.S. Sasan & Mr. H.S. Sasan,
Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **17.08.2017**

1. Transfer is sought of Civil Suit No.DJ/211613/2016 (CS No.917/2016) titled 'Hemant Kumar Vs. Sadhna Sharma & Ors.' of the Court of Ms. Neelofer Abida Parveen, Additional District Judge (ADJ) (South-East), Saket Courts, New Delhi to the Court of Dr. Neera Bharihoke, ADJ, District South, Saket Courts, New Delhi where Civil Suit No.DJ/205795/2016 (CS No.11/2016) titled 'Hemant Kumar Vs. Vinod Prakash Sharma' is pending.

2. While the suit pending in District South is for partition of immovable property, the suit pending in the District South-East is for permanent and mandatory injunction. Both the suits were originally filed in this Court and on enhancement of minimum pecuniary jurisdiction of this Court have been transferred to two different districts.

3. Notice of the petition was ordered to be issued and notice issued to the respondent no.1 has been returned with the endorsement of having been refused by his wife i.e. the respondent no.2.

4. The respondent no.2 is appearing through counsel.
5. The need to await the service of the respondent no.1 is not felt.
6. The counsel for the respondent no.2 has opposed the transfer contending that while the suit for partition is at the stage of service of the parties, the suit for permanent injunction is at the stage of evidence. It is further contended that the cause of action for the two suits is different. It is yet further stated that the respondent no.2 is not a party in the suit for partition.
7. I have enquired from the counsel for the petitioner the need to continue with the suit for injunction in view of the pendency of the substantive suit for partition.
8. The counsel for the petitioner states that it is owing to the interim order in the suit for injunction that the petitioner is enjoying water supply and access to his portion of the property.
9. On enquiry it is stated that the property subject matter of the suit for partition is situated within district South.
10. In this view of the matter, it is deemed appropriate to allow the petition. Accordingly, the Civil Suit No.DJ/211613/2016 (CS No.917/2016) titled 'Hemant Kumar Vs. Sadhna Sharma & Ors.' pending in the Court of Ms. Neelofer Abida Pervin, Additional District Judge (ADJ) (South-East), Saket Courts, New Delhi is ordered to be transferred to the District Judge (South), Saket Courts, New Delhi who is requested to assign the said suit to the same Court where Civil Suit No.DJ/205795/2016 (CS No.11/2016) titled 'Hemant Kumar Vs. Vinod Prakash Sharma' is pending, as disclosed, in the Court of Dr. Neera Bharihoke, ADJ, District South, Saket Courts, New Delhi.

11. The file of the transferred Suit be forthwith forwarded so that the transferred suit can be taken up by the same learned ADJ on 10th October, 2017 when the suit before Dr. Neera Bharihoke, ADJ, District South, Saket Courts, New Delhi is stated to be listed.

12. The counsel for the petitioner to also intimate this order to the counsel for the respondent no.1 / respondent no.1.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 17, 2017
'gsr'..