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

+ **TR.P.(C.) 102/2017 & CM No.23533/2017 (for stay)**

SURESH KUMAR Petitioner

Through: Ms. Aastha Dhawan & Ms. Gauri P.
Desai, Advs.

Versus

JAGBIR SINGH & ORS Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **17.07.2017**

CM No.23534/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

TR.P.(C.) 102/2017 & CM No.23533/2017 (for stay)

3. This Transfer Petition under Section 24 of the CPC seeks transfer of a suit filed by the respondent no.1 Jagbir Singh against the petitioner and pending as Civil Suit No.58611/2016 of the Court of Sh. S.S. Rathi, Additional District Judge (ADJ), Patiala House Courts, New Delhi to this Court for consolidation and trial along with CS(COMM) No.864/2016 of this Court.
4. The counsel for the petitioner has been heard.
5. The respondent no.1 Jagbir Singh has instituted the suit pending before the ADJ for recovery of Rs.7,13,000/- being the rent due to the respondent no.1 Jagbir Singh with respect to first floor of an immovable property which the respondent no.1 Jagbir Singh claims to have permitted

the petitioner to realise subject to the petitioner subsequently repaying the same to the respondent No.1 Jagbir Singh.

6. The suit filed by the petitioner and pending in this Court is i) for declaration that the Sale Deed executed by the respondent no.1 Jagbir Singh in favour of respondents no.2 and 3 viz. Kusum Dunglay and Rouble Dunglay of the ground floor is bad; ii) for recovery of Rs.25,15,097/- being the 50% share of the rental of the ground floor claimed by the petitioner; iii) for rendition of accounts; and, iv) for permanent injunction restraining the respondent no.1 Jagbir Singh from dealing with the property.

7. The counsel for the petitioner has argued i) that the respondent no.1 Jagbir Singh was earlier the exclusive owner of the entire property; the respondent no.1 Jagbir Singh sold 50% share of the ground floor to the petitioner; the respondent no.1 Jagbir Singh subsequently sold the entire ground floor to respondents No.2&3; and, ii) that when the petitioner confronted the respondent no.1 Jagbir Singh therewith, the respondent no.1 Jagbir Singh permitted the petitioner to realise the rent from his tenant on the first floor of the property.

8. The counsel for the petitioner has thus contended that the issues in the two suits would be the same.

9. I am of the view that no case for transfer of the suit, which as per its own valuation has been validly instituted in the Court of the District Judge, to this Court is made out. It cannot be lost sight of that the disposal of the suit pending before the ADJ is likely to be much quicker than the disposal of the suit filed by the petitioner in this Court. Transfer cannot be to such prejudice to a litigant. Moreover, since admittedly the respondent no.1

Jagbir Singh is the owner of the first floor of the property and the suit filed by the petitioner for declaration with respect to the ground floor is still to be decreed, it is felt that the adjudication of the claim of the respondent no.1 Jagbir Singh be not delayed by transferring the suit to this Court.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 17, 2017

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