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

+ **TR.P.(C.) 159/2016**

SHIV CHARAN

..... Petitioner

Through: Mr. Sunil Kumar, Adv.

Versus

MOHD HAIDER ALI & ORS

..... Respondents

Through: Ms. Anu Gupta, Adv. for R-4/EDMC.

Mr. Varun Nischal, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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01.09.2017

1. Transfer is sought of Civil Suit No.128/2014 titled “Shiv Charan Vs. Mohd. Haider & Ors.” pending in the Court of Sh. Ravinder Singh, Additional District Judge (ADJ), District Shahdara, Karkardooma Courts, Delhi to North-East District.
2. Notice of the petition was ordered to be issued and all the respondents are stated to have been served. Only the counsel for the respondent no.4 East Delhi Municipal Corporation (EDMC) and respondent no.5 Station House Officer (SHO), Police Station Jafrabad appear. None appears for the respondents no.1 to 3.
3. The counsel for the petitioner argues that the suit is at the stage of final arguments but the respondent no.1 has filed an application under Section 16 of the Code of Civil Procedure, 1908 (CPC) and which has lead to filing of this petition being filed.
4. I have enquired from the counsel for the petitioner, whether there is any issue framed in the suit, of territorial jurisdiction or any evidence has been led on the said aspect.

5. The answer is in the negative.
6. Per Section 21 of the CPC, no objection as to place of suing is to be allowed unless it was taken at the earliest possible opportunity. The respondent no.1 having not taken such an objection at the earliest possible opportunity and having not contested this petition, even if has filed any application under Section 16 of the CPC is not entitled to derail the hearing of final arguments in the suit.
7. The petition is dismissed.
No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 01, 2017
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