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

Decided on: 11th September, 2017

+ TR.P.(C.) 107/2017 and CM 24473-24475/2017

CARAVAN COMMERCIAL CO LTD Petitioner

Through: Mr. Ravi Gupta, Sr. Advocate with
Mr. Manish Srivastava, Advocate

versus

YASHASWAI AGGARWAL AND ORS Respondents

Through: Mr. Manish Vashisht, Mr. Sameer
Vashisht and Mr. Ricky Gupta, Advocates
for R-3 & 4

Mr. Lalit Gupta and Mr. Siddhanth Arora,
Adv. for R-15 to 18

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The parties have been locked in litigation in three civil suits, the subject matter whereof is common, it being property described as bearing no.42-44, Sunder Nagar, New Delhi. All the three suits were initially filed on the original side of this Court, later made over to the District Court on account of change of pecuniary jurisdiction, but, on applications being moved, at least in one to raise the valuation of the relief claimed, two of such suits stood transferred back to this court and are pending on the original side. One of the said suits was initiated by the petitioner herein seeking specific performance of the agreement to sell originally executed on 15.11.1991 statedly by the three erstwhile owners, the petitioner claiming to have acquired the

right, title and interest of two of them by further documents executed in 2011, its claim to have been put in physical possession of a part of the subject property and the legality of such transfer of undivided interest being subject matter of pending proceedings including under the Contempt of Courts Act. The other suit, which is also pending on the original side of this court, was instituted by a successor-in-interest of one of the erstwhile owners seeking relief of partition, the petitioner having been added to the fray in the said suit on application moved by it under Order I Rule 10 CPC.

2. The third suit, initially instituted as CS(OS) no.1587/2011 presently pending as CS DJ/207881/2016 on the file of the court of Ms. Neelofer Abida Praveen, Additional District Judge, the transfer of which to this court is the prayer made in the present petition, was instituted by the third and fourth respondents herein against the petitioner taking exception to its claim based on the documents whereunder it asserts to be the owner of two-thirds of the right, title and interest in the subject property questioning, *inter alia*, the legitimacy of its possession of a part thereof on the grounds that the same was impermissible in view of Section 44 of the Transfer of Property Act. The reliefs claimed in the said suit are primarily in the nature of injunction so as to restrain the petitioner from exercising rights vis-a-vis the said property.

3. In the above facts and circumstances, the opposition to the prayer for transfer of the case pending before the District Court based on *S.C. Jain and Bindeshwari Devi, 1997 (42) DRJ* and *Manjunath*

Hedge Vs. Jaypee Brothers Medical Publishers (P) Ltd., 2010(8) AD (Delhi) 116, is misplaced. It may be that the two suits pending on the original side of this court have parties beyond those in the fray in the civil suit pending on the file of the Additional District Judge. But, it is not correct to say that no common questions arise. The legality or otherwise of the documents on the basis of which the petitioner claims interest in the subject property would be an issue common to all the three cases and, therefore, it is just and proper that they are adjudicated upon by the same court. Whether or not the three cases are to be clubbed for purposes of trial is an issue that will have to be considered by the court which holds the trial.

4. For the foregoing reasons, the petition is allowed. The civil suit CS(OS) no.1587/2011, presently pending as CS DJ/207881/2016 on the file of the court of Ms. Neelofer Abida Praveen, Additional District Judge, Saket Court, New Delhi is transferred from the said court to this court.

5. The transferor court is directed to send the file to this court by fixing an appropriate date for the parties to appear before the roster bench on the original side to which the case is allocated.

6. The petition and the pending applications are disposed of in above terms.

7. Dasti.

R.K.GAUBA, J.

SEPTEMBER 11, 2017/yg