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

+ **TR.P.(C.) 114/2017**

ANIL KUMAR TYAGI

..... Petitioner

Through: Mr. S.K. Bhaduri and Mr. Prem
Prakash, Advs.

Versus

GANDHI TYAGI

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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26.07.2017

CM No.26261/2017 (for exemption)

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

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3. This Transfer Petition seeks transfer of two suits between the same parties and pending before the Courts of different Civil Judges in the same district, to one Court.
4. One of the suits filed by the petitioner is stated to be under Section 6 of the Specific Relief Act, 1963.
5. The other suit filed by the respondent is stated to be for permanent injunction to restrain the petitioner from forcibly taking over possession of the same property.
6. The petitioner having taken recourse to law by filing a suit under Section 6 of the Specific Relief Act, I have enquired from the counsel for the petitioner the need for continuation of the suit for permanent injunction filed by the respondent.

7. The counsel for the petitioner states that wrong facts have been pleaded in the plaint in the suit filed by the respondent for permanent injunction and hence the need to contest that suit.

8. I have further enquired whether not the same facts must have been pleaded by the respondent in the written statement to the suit filed by the petitioner and which must be issue in the said suit.

9. The answer is in the affirmative.

10. The petitioner having already filed the suit for possession under Section 6 Specific Relief Act, performance ought to make a statement, before the Court where the suit for permanent injunction filed by the respondent is pending, to the effect that without admitting any of the pleas in the plaint and with liberty to pursue the suit under Section 6 of the Specific Relief Act, he will not forcibly dispossess the respondent from the property.

11. Even otherwise, claim under Section 6 of Specific Relief Act cannot be clubbed with any other claim.

12. There is thus no need for transfer.

13. The petition is disposed of with the aforesaid observations.

Copy of this order be given *dasti* under the signatures of the Court Master.

RAJIV SAHAI ENDLAW, J.

JULY 26, 2017

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