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

+ CM(M) 1369/2016 & CM No.47693/2016

M/S JACONDE OVERSEAS PVT LTD Petitioner
Through Mr.Ashish Bhardwaj & Mr.Prakhar
Bhatnagar, Advocates
versus

M/S METTLER AUTO LTD & ORS Respondents
Through Mr.Harsh Katyal & Mr.Pratyasha
Kunj, Advocates with Sh.Anadish
Srivastava, Dy. Manager Legal-
Respondent

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **03.02.2017**

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to challenge the order dated 09.11.2016 by which the application filed under Section 151 CPC for consolidation of the two suits was dismissed.
2. The respondents had filed a suit for recovery of Rs.5,80,798/- being arrears of rent, unpaid electricity and water charges of the premises where the petitioner was tenant.
3. The petitioner had also filed a suit for recovery of Rs.49,93,887/- on the ground that the respondents had forcibly taken possession of the premises and caused damage to the some of the machinery, equipment etc. of the petitioner.
4. I have heard the learned counsel for the parties.
5. The learned counsel for the petitioner submits that the suit of the

petitioner was initially filed before this court, but due to enhancement of pecuniary jurisdiction, now the matter has been transferred to the District Court. Hence, the learned counsel for the petitioner submits that these two suits may be consolidated and heard together as common question of law and facts arise and the evidence of the parties would also have to be common.

6. The learned counsel for the respondents strongly opposes the present petition pointing out that both the suits were filed in the year 2007. He further submits that the evidence of the respondents in the suit filed by the respondents has been completed in 2012, on the other hand, he submits that in the suit filed by the petitioner the evidence of the petitioner/plaintiff is yet to be completed. He submits that consolidation will only delay the proceedings.

7. The trial court by the impugned order noting the nature of the suits held that these two suits cannot be consolidated but can be decided simultaneously and dismissed the application.

8. In my opinion, the apprehension of the respondents that if these two suits are consolidated and heard together, then the proceedings will get delayed is a justified apprehension. Further more importantly, I am not inclined to accept the request of the petitioner, as it is made 9 years after filing of the suits. Now, after 9 years the petitioner cannot be permitted to seek that both the suits be consolidated and heard together.

9. In view of the above, the present petition and all the pending applications stand dismissed.

JAYANT NATH, J.

FEBRUARY 03, 2017/v