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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 594/2017, C.M. APPL.33237-33238/2017

ATUL TANWAR & ANR Appellants
Through : Sh. N.K. Aggarwal, Advocate.

versus

ADVOCATE KEHAR SINGH & ORS Respondents
Through : Sh. Shailender Negi, Advocate, for
Respondent Nos. 1 and 2.
Sh. Ankit Mangla, proxy counsel, for Sh. Sandeep
Jindal, Advocate, for Respondent Nos. 3 to 7.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **09.10.2017**

We have heard learned counsel for the parties.

1. The facts are that in respect of the same property, WZ-570, Naraina Village, New Delhi, three civil actions were filed; the earliest suit by the second respondent was filed in June, 2011, i.e. CS 106/2016 (*Arti Chaudhary v. Atul Tanwar and Ors.*) before the District Court at Dwarka. The second suit, i.e. now renumbered as CS 5/2017 (*Smt. Rajesh and Ors. v. Smt. Mithlesh and Ors.*) was filed on 24.10.2011. The relief claimed in this case is for decree of partition, declaration and permanent injunction. The third suit was filed before this Court in July, 2013, initially as CS(OS) 1589/2013 (*Arti Chaudhary v. Atul Tanwar and Ors.*). Here, the relief was for decree

of possession against the present appellants. Upon reorganization of pecuniary jurisdiction, this suit was transferred to the District Court at New Delhi where it is renumbered as CS 57155/2016 (*Arti Chaudhary v. Atul Tanwar and Ors.*) [hereafter the suits are referred to by their respective case numbers]

2. Having regard to these multifarious proceedings, claiming overlapping but at the same time distinct reliefs, the appellants had sought the relief of consolidation of proceedings before the District Court at New Delhi, which was declined by the impugned order.

3. This Court had issued notice to the parties in the proceedings. Learned counsel for the Respondent Nos. 1 to 7 are present. Respondent Nos. 8-9 and 11-12 were directed to be served through learned counsel. Their previous counsel has been served, as is evident from the affidavit of the *dasti* service which is on the record. Respondent No.10 is the Sub-Registrar.

4. Apparently, the said respondents and the other respondents are subsequent purchasers of undivided shares in the property.

5. Having regard to the fact that all these suits concerned the same property and the fact that the initial suit was filed at Dwarka District Court and was proceeded as such, the fact that subsequently, due to reorganization of pecuniary jurisdiction, it has fallen within the jurisdiction of the District Court at New Delhi *per se* in this case would result in multifarious litigations, before different Courts.

6. The claim in CS 5/2007 which was initiated before the Dwarka District Court is for partition and, therefore, encompasses the largest

relief. Having regard to these facts and furthermore as the first suit was filed before the Dwarka Court where proceedings have continued, the Court is of the opinion that the interest of justice lies in consolidation of these proceedings before the Dwarka District Court.

7. Accordingly, CS 106/2016, CS 5/2017 and CS 57155/2016 pending before the New Delhi District Court are hereby directed to be transferred and placed before the District Judge, Dwarka who shall ensure that all of them are tried by one judge in the Dwarka District Court, preferably the District Judge, who is seized of the earliest suit, i.e. CS 106/2016.

8. The concerned Additional District Judge (ADJ) shall consolidate the proceedings and at the same time frame different issues with respect to the relief claimed in each of the suits. The parties before this Court state that they would not urge the issue of jurisdiction henceforth in any proceedings concerning the subject matter of the three suits. The ADJ concerned who is assigned with all the three suits to be tried together shall first ensure that the unserved respondents are appropriately intimated about the consolidation and thereafter proceed with the suits from the relevant stage/stages. All the parties are directed to be present before the District Judge on 25.10.2017 at 02.00 PM. The impugned order is accordingly set aside.

9. The appeal is allowed in the above terms along with the pending applications. Order *dasti*.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

OCTOBER 09, 2017/ajk

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