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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ TR.P.(C.) No.158/2017 and CM No.34352/2017 (for stay).
S.P.P. FOOD PRODUCTS PRIVATE LTD. Petitioner

Through: Counsel for the petitioner.

versus

VIDHI PACKGING INDUSTRIES Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.09.2017**

CM No.34353/2017 (for exemption).

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

TR.P.(C.) 158/2017 and CM No.34352/2017 (for stay).

3. This Transfer Petition under Section 24 of the Code of Civil Procedure, 1908 (CPC) seeks transfer of CS No.616494/2016 titled *M/s. S.P.P. Food Products Private Limited Vs. M/s. Vidhi Packaging Industries* from the Court of Shri Vijay Shankar, Additional District Judge (Central), Tis Hazari Courts to the Court of District Judge /Additional District Judge, District (West), Tis Hazari Courts, Delhi.

4. Final arguments in the suit are stated to have already been heard.

5. The counsel for the petitioner / plaintiff states that the Judge who heard the final arguments was transferred and Shri Vijay Shankar, Additional District Judge has also heard part arguments. The reason for filing this Transfer Petition is as under:-

- (i) that the petitioner / plaintiff instituted the suit, from which this petition arises, for recovery of money, in Central District, Tis

TR.P.(C.) No.158/2017

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Hazari Courts pleading that the office of the respondent / defendant was located within the jurisdiction of that Court;

- (ii) the respondent / defendant in written statement, though admitted that its registered office was located within the jurisdiction of that Court but disputed the jurisdiction of that Court to entertain the suit in view of the agreement pleaded of exclusive jurisdiction of Courts at Rudrapur;
- (iii) that an issue was framed in the suit but which in the face of the pleadings aforesaid was / is in the context of the agreement of exclusive jurisdiction of Rudrapur Courts;
- (iv) that the respondent / defendant during the course of arguments also did not dispute the jurisdiction of Central District, if the Courts at Delhi were to have jurisdiction; and,
- (v) that however Shri Vijay Shankar, Additional District Judge, on 10th August, 2017 observed that the office of the respondent / defendant is not in District (Central) but in District (West), Tis Hazari Courts, Delhi.

6. However a perusal of the order dated 10th August, 2017 does not show the learned Additional District Judge to have made any such observations; on the contrary, the said order records the statement of the counsel for the petitioner / plaintiff that it wishes to file the Transfer Petition.

7. The counsel for the petitioner / plaintiff states that the occasion for making such a statement arose owing to what was verbally observed by the learned Additional District Judge.

8. In the aforesaid facts and circumstances, when in the pleadings there

is no dispute of the registered office of the respondent / defendant being located in Central District and the only dispute is as to whether the Courts at Rudrapur have exclusive jurisdiction, it is felt that exercising the power of transfer at this stage would lead to delay in disposal of the suit, final arguments wherein are stated to have been already partly heard.

9. Moreover, the creation of several Districts is for Administrative convenience and for convenience of the litigants and the creation of Districts is not to be used to the detriment of the litigant and which is bound to follow if the suit at the stage of final arguments is to be transferred or the plaint ordered to be returned.

10. Attention in this respect may also be drawn to Section 21 of the CPC which provides that defects of territorial jurisdiction unless have led to any failure of justice, cannot be allowed to defeat the lis.

11. With the aforesaid observations, the petition is disposed of.

Dasti under signature of Court Master.

SEPTEMBER 19, 2017
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RAJIV SAHAI ENDLAW, J