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

+ **TR.P.(CRL.) 41/2017**

APOLLO INTERNATIONAL LIMITED

..... Petitioner

Through: Mr. Shyam Moorjani, Advocate.

versus

**M/S SHORELINE INFRASTRUCTURE DEVELOPERS LTD &
ORS**

..... Respondents

Through: Mr. Rahul Sharma, Advocate for R-1
to R-4.

Mr. Manish P.S. Chauhan, Advocate
for R-5.

Mr. Amit Chadha, APP for State.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **08.11.2017**

The learned Counsel for the petitioner does not press any averment in the petition apropos any delay having been caused by the respondent. He submits that the petitioner is interested that the case may be transferred from the Court of Ld. MM, SE/Saket to the Court of Ms. Manisha Tripathy, Ld. MM of Patiala House Courts, who had heard the arguments finally and had reserved the judgment.

The Counsel for the respondent states that the case was only registered by the latter Court but the Court proceedings do not indicate that the case had otherwise been reserved for orders.

In the order dated 08.08.2017, the Court had recorded as under:

*“ An application for exemption from personal appearance
filed on behalf of accused D. Chokhani on the ground that*

accused D. Chokhani is stated to be out of India. For reasons stated therein, accused D. Chokhani is exempted from personal appearance only for today.

Orders could not be passed today. Accused persons are directed to appear on 11.08.2017. The date is given at the request of Ld. Counsel for the accused”.

Subsequent thereto the order could not be pronounced for one reason or the other and the matter was next listed on 08.09.2017. The learned Metropolitan Magistrate who had heard the case and was to pronounce the final order was subsequently transferred to this Court vide Administrative Order dated 28.07.2017.

The learned Counsel for the parties submit that if the case is transferred to the Court which had heard the arguments, the parties shall be present before the Court. Respondent no. 5 has no objection. However, the Counsel for Respondent nos. 1 to 4 states that there is an impediment in view of section 142 A (2) of the Negotiable Instruments Act:-

“(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court”.

Therefore, in view of the statutory provision the contention of counsel for respondent nos. 1 to 4 is untenable. The case has been heard and reserved for judgment, which has to be pronounced. This could not be done

as in the interim the judicial officer got transferred.

The counsel for the respondent states that representation shall be made before the said Court on the date so indicated.

In the aforesaid circumstances, the case having been heard and reserved for judgment needs to be transferred to the Court which had reserved the judgment. Accordingly, the case is transferred from the Court of Ld. MM, SE/Saket to the Court of Ms. Manisha Tripathy, Ld. MM of Patiala House Courts. Parties shall appear before the Court on 21st November, 2017 for the proceedings.

The court file shall be physically transferred from the Learned SE/Saket Courts to the court of Ms. Manisha Tripathy, Ld M.M., Patiala House Courts.

The petition is disposed off.

A copy of the order be given '*dasti*' under the signature of the Court Master.

NAJMI WAZIRI, J

NOVEMBER 08, 2017

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