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

+ **FAO 3/2018, CM APPL. 292/2018, CM APPL. 293/2018**

TUSHAR MITTAL Appellant
Through: Mr. Setu Niket, Advocate.

Versus

RAJ KUMARI VERMA & ORS Respondents
Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **08.02.2018**

1. This appeal impugns the order dated 20.11.2017 which had returned the suit to be presented before the Court of lowest jurisdiction. The appellant had sought permanent and mandatory injunction against publications which were allegedly hurting his goodwill and reputation. The appellant had valued the suit, for the purposes of relief of permanent injunction at Rs. 2,00,000/-, for the purposes of relief of mandatory injunction at Rs. 1,00,010/- and for the purposes of pecuniary jurisdiction at Rs. 3,00,010/-. The learned counsel for the appellant states that the appellant can value the suit at his own will provided it is supported by averments in the plaint.

2. The trial court had relied upon the judgment of this Court in *Wockhardt Veterinary Ltd. vs M/s Raj Medicos & Anr.* 1998 VI AD (Delhi) 1. However, the Full Bench of this Court in *Smt. Sheila Devi & Ors. Vs Shri Kishan Lal Kalra & Ors.* ILR (1974) II Delhi 491 held:

“... For the foregoing reasons, our answer to the first question that has been referred is in the negative, i.e. that Paragraph (iv) of Section 7 of the Court-fees Act gives a right to the plaintiff in any of the suits mentioned in the clauses of that paragraph to place any valuation that he likes on the relief he seeks, subject, however, to any rules made under Section 9 of the Suits Valuation Act, and the Court has no power to interfere with the plaintiff’s valuation....”

3. Subsequently, a Division Bench of this Court in ***Shakuntala Rani vs Rajesh Bhatt (Deceased) Thr. LRs 80 (1999) DLT 98 (DB)*** held:

“.....7. Following the ratio in Sathappa Chettiar’s case (supra), in Smt. Sheila Devi’s case (supra) it was held by a Full Bench of this Court that Sub-section (iv) of Section 7 of the Court Fees Act gives a right to the plaintiff in any of the suits mentioned in various clauses of that sub-section to place any valuation that he likes on the relief he seeks subject however, to any rules made under Section 9 of the Suits Valuation Act and the Court has no power to interfere with the plaintiff’s valuation....”

4. This Court in ***Veena Bahl & Ors. vs Manmohan Bahl & Ors. 238 (2017) DLT 281*** held:

“.... 18. It is well settled that the plaintiff is dominus litis and in him vests the power to choose the Court and determine the valuation of the suit for purposes of pecuniary jurisdiction and that the defendant cannot insist that the suit be tried before a particular Court. Nor can the Courts compel the plaintiff to go to another Court or interfere with his valuation of the suit....”

5. In view of the above, the impugned order cannot be sustained. Accordingly, it is set aside and the case is restored to its original number and

position before the Trial Court. The appellant shall appear before the Trial Court on 12.03.2018.

NAJMI WAZIRI, J

FEBRUARY 08, 2018/kk