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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 230/2018 & CM APPL. 16123-16125/2018

JAYA GOYAL

..... Appellant

Through Ms.Jaya Goyal and Mr.Manpreet
Kaur, Advocates.

versus

LAWYERS CHAMBERS ALLOTMENT COMMITTEE & ORS

..... Respondents

Through Mr.Sanjay Dewan and Ms.Palak
Rohmetra, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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09.05.2018

The appellant's grievance is that the request for allotment of a chamber in the Saket Court Complex was rejected on the ground that the experience criteria of filing at least 15 cases was not fulfilled.

Learned Single Judge recorded that the concerned Committee rejected the application on the ground that three cases concern the same cause of action. The Committee apparently was of the view that all these could not be treated as separate cases but were to be rather treated as one.

Relevant extract of the learned Single Judge's impugned order is as follows:

"5. Mr.Rao, the learned counsel appearing for respondent no.1 has provided a tabular statement, which

indicates that although the petitioner has provided the details of fifteen cases, the Committee found that the details pertained only to thirteen cases. This was so because four cases were considered as similar and, therefore, counted as only two cases.

6. Two of the cases submitted by the petitioner were amongst the same parties – that is, Ms Shahla Nigar v. Arvinder Ansari: Case No.645/2010 and Ms Shahla Nigar v. Arvinder Ansari: Case No.3/2011- and therefore were considered as a single case.

7. It is seen that one of the aforesaid matter is a suit while the other is an appeal against an order passed in an application under Order 39 Rule 1 and 2 CPC in the suit. Thus, indisputably, the said matters cannot be considered as two separate cases. However, even if the said cases are considered as two separate cases as urged by the learned counsel for the petitioner, the petitioner still does not qualify the eligibility criteria. It is seen that the petitioner has provided details of two other cases- Case No.545/6/14 captioned “Sanjay Goel HUF v. Shyam Pal” and Case No.546/4/14 captioned “Sanjay Goel HUF v. Shyam Pal”. Whilst the order in the case 545/6/14 reflects the presence of the petitioner as a Counsel; the order purporting to be Case No.546/6/14 is in fact record of proceedings pertaining to Case No.545/6/14 is in fact record of proceedings pertaining to Case No.545/6/14. It is apparent that this is an inadvertent error; but it is fatal to the petitioner’s application as the petitioner’s presence in case 545/6/14 is not established.

8. There is an order sheet which pertains to Case No.546/6/14 but that does not reflect the name of the petitioner.

9. In this view, it is clear that the petitioner does not comply with the eligibility criteria and the decision of the respondents in rejecting the petitioner’s application cannot be faulted.”

It is urged that relegating the issue to the Committee would still leave the possibility of a rejection of her application. It is urged that though the parties to a suit and an appeal from the decision might never be the same, the rationale for approaching the Court is different and that in the case of an appeal, the decision of the Court of first instance is questioned.

Filing of a suit cannot be treated as filing of an appeal although it has been held that appellate proceedings are in continuation of the suit. Nevertheless as far as the counsel is concerned, the effort is twice over and she or he has to approach the Court depending on what the court of first instance (Trial Court) wishes. This Court is thus of the opinion that the respondent-Committee should consider the petitioner/appellant as eligible, given that she fulfils other criteria.

The respondent's Chamber Allotment Committee is therefore, directed to process and decide the appellant's application on the basis that it fulfils the relevant eligibility criteria.

The appeal is allowed in the above terms.

Pending applications too are disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 09, 2018

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