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

+ **CS(COMM) 409/2016**

SHAIVAL SAHAY Plaintiff

Through : **Mr. Vivek Singh, Adv.**

versus

GOVIND VERMA & ORS Defendants

Through : **Mr. Rajesh Chhetri, Ms. Meenakshi
Rawat, Mr. Rajeev Chhetri, Adv.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **08.03.2018**

1. The suit is ripe for framing of issues.
2. However, the counsel for the plaintiff states that, (i) this suit is filed for recovery of Rs.1,47,00,000/- with interest; (ii) the suit was filed before the enhancement of the minimum pecuniary jurisdiction of this Court by Delhi High Court Amendment Act, 2015; and, (iii) that though on enhancement of the minimum pecuniary jurisdiction of this Court, the suits of a value below the said minimum pecuniary jurisdiction were ordered to be transferred to the District Court but the present suit was not transferred owing to the counsel for the plaintiff as well as the counsel for the defendants stating before the Joint Registrar on 22nd April, 2016 that the present suit arises out of a joint venture agreement pertaining to development of property of value above Rs. 1,00,00,000/- and therefore, qualifies as a commercial suit.

3. The counsel for the plaintiff further states that in the light of the judgment of this Court in *Mukesh Kumar Gupta Vs. Rajneesh Gupta* 2016 SCC OnLine Del 3148 and in *Soni Dave Vs. Trans Asian Industries Expositions Pvt. Ltd.* 2016 SCC OnLine Del 4282, the statement made by the counsels for the parties before the Joint Registrar on 22nd April, 2016 were erroneous and the present suit would not qualify as a commercial suit. He seeks transfer of the present suit, for further proceedings, to the subordinate courts in accordance with Office Order dated 24th November, 2015 of the Worthy Registrar General of this Court.

4. The counsel for the defendant also confirms.

5. I have also satisfied myself that the present suit was erroneously ordered to be re-numbered as a commercial suit when it does not qualify so within the meaning of Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

6. The order dated 22nd April, 2016 of the Joint Registrar is thus recalled.

7. The defendants Nos. 1-5 in the memo of parties are described as residents of outside Delhi and the defendant No. 6 is described as a resident of Mayur Vihar-I, New Delhi. The plaintiff is a resident of Navjiwan Vihar, New Delhi. The cause of action is described as having accrued at New Delhi owing to the agreement under which monetary claim is made having been signed at Delhi. Thus, either the Court within whose jurisdiction the plaintiff is the resident will have territorial jurisdiction or the Court within whose jurisdiction the defendant No. 6 is a resident will have the territorial jurisdiction.

8. Both counsels state that the suit be sent to the District Court having jurisdiction over Colony of Navjiwan Vihar, New Delhi and further inform that the said colony falls within District South.

9. The parties to appear before the Additional District Judge/District Judge, South District, Saket Courts, New Delhi, on 16th April, 2018.

RAJIV SAHAI ENDLAW, J

MARCH 08, 2018

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