

\$~4

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

+ RFA 304/2016

TDI INFRASTRUCTURE LIMITED

..... Appellant

Through: Mr. Neeraj Yadav, Advocate with Mr.
Sidharth Arora, Advocate (M.
No.9811183806).

versus

RAJESH MITTAL & ANR

..... Respondents

Through: Mr. Rituraj Biswas, Advocate (M.
No.9999023225).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **16.11.2018**

1. The impugned judgment decrees the suit filed by the respondents/plaintiffs by passing a decree for mandatory injunction to withdraw the demands for overdue and holding charges and hand over actual physical possession of plot no.I-116, measuring 500 sq yds, TDI City, Kundli, Sonapat, Haryana to the respondents/plaintiffs.

2. Before this Court, an issue has been urged that the subject suit though was decreed, the court at Delhi did not have territorial jurisdiction. Ordinarily once a court does not have territorial jurisdiction, then, under

Order 7 Rule 10 of Code of Civil Procedure, 1908 (CPC) the plaint is returned but in the present case, a lot of water has flown under the bridge since filing of the suit as not only the suit has reached at the stage of final arguments after evidence has been led by both the parties but the suit has been decreed and the appeal is now filed in this Court under Section 96 CPC.

3. Since return of the plaint will cause prejudice not only to the respondents/plaintiffs but also to the appellant/defendant which has otherwise led evidence in the suit, therefore, counsels for the parties agree that this Court can, in view of Sections 22 and 23 CPC read with Section 151 CPC, order that the suit as a whole from the stage of final arguments be transferred to the concerned court of territorial jurisdiction and which concerned court in this case would be the competent court within the jurisdiction of District Judge of Sonapat, at Haryana.

4. Accordingly, let the original suit file of the suit be now transferred to the court of District Judge at Sonapat in Haryana and the District Judge will now mark the suit for disposal to a competent court. Let parties appear before the District Judge, Sonapat, Haryana on 14th January,

2019. Registry of this Court will ensure that original suit file of this case is made available to the District Judge, Sonapat in Haryana on the date fixed.

5. Appeal is accordingly disposed of in terms of aforesaid observations.

VALMIKI J. MEHTA, J

NOVEMBER 16, 2018

Ne