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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 715/2018 & CM APPL. 25584-25586/2018
SALLY VERGHESE Petitioner
Through: Ms. Amrita Jha, Adv.

versus

POONAM SAREEN Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **11.07.2018**

Pursuant to the directions dated 02.07.2018, the Registry has put up the notification No.3089/DHC/GAZ./Vi.E.2(a) 2008 dated 22.10.2008 pursuant to bifurcation of the districts of Delhi and vide the Clause-9 thereof it has been stated therein to the effect that:

“All civil suits, applications, revisions and appeals may be presented to the competent Courts, District-wise and the title of each suit, application, revision or appeal should read as under:-

“In the Court of _____ of _____ at _____”

(Name of the Court in which suit, application, revision or appeal is Preferred) (Name of the Civil District to which the Court belongs) (Place of sitting of the Court)

whereby *inter alia* all civil suits, **applications**, revisions and appeals have been directed to be presented to the competent Court, District-wise and the execution proceedings in cases pursuant to civil suits filed would thus automatically have to be held to have been

transferred to the District concerned where the civil suits were transferred from this Court.

The petitioner assails the impugned order dated 08.09.2016 of the trial Court whereby notice of an application i.e. Ex.No.5368/16 (bearing old Ex.No.134/15) was issued to the judgment debtor with the process being directed to be returnable for the date 11.11.2016 and the petitioner also assails a notice dated 10.04.2018 calling upon the appellant/petitioner to participate in the mediation proceedings.

It has been submitted on behalf of the petitioner that whilst issuance of the order dated 08.09.2016, the observations of the very same Court of the learned ACJ/CCJ/ARC (SE) dated 20.05.2016 were not taken into account wherein it had been observed to the effect that there were several objections that have been raised by the office i.e. **this petition had been filed after 12 years and that the decree was passed by the Court of an ADJ and that the Court may not have jurisdiction and thirdly, the transfer certificate had not been filed.”**

Inter alia it has been submitted on behalf of the petitioner that the aspect of the existence of the order dated 29.11.2016 of the Court of the ADJ (Central)-01, Delhi was not taken into account whereby the application filed under Section 151 of the CPC on 12.08.2016 and an application u/Order 21 Rule 6 r/w Section 151 of the CPC seeking issuance of the transfer certificate were dismissed as withdrawn with liberty prayed for by the decree holder to take recourse to law in the

Court where the execution application had earlier been filed and was pending.

It is essential to observe that the proceedings from the Court of ADJ by a change in pecuniary jurisdiction having been transferred to the Court of ACJ/CCJ/ARC, South-East, apparently thus the transfer certificate from the Court of the ADJ to the Court of the CCJ would not be required.

Furthermore, vide the impugned order dated 08.09.2016, the judgment debtor had also been issued notice to respond to the execution application. The contention raised on behalf of the appellant/petitioner to the effect that such notice could not have been issued as the application was time barred, is devoid of all merits inasmuch as the notice had apparently been issued as the application was time barred and an application seeking execution of a decree beyond a period of two years cannot be considered without notice. The issuance of the notice was thus requisite and mandatory for consideration of the application and furthermore a reference to mediation, in terms of Section 89 of the CPC, 1908 (as amended) is also made explicit by the legislature in cases where a Court considers that there exists an element of settlement in a dispute.

In the circumstances, there is no merit in the application.

The petition CM(M) 715/2018 with the accompanying application CM APPL. 25584/2018 is declined.

ANU MALHOTRA, J

JULY 11, 2018/vm

