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

+ **CS(COMM) 952/2018**

SUSHIL KUMAR JAIN & ANR Plaintiffs

Through: Mr. B.B. Gupta and Ms. Prity
Sharma, Advs.

Versus

DAMAN PREET AND ANR.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **01.06.2018**

IA's No.7928/2018 & 7929/2018 (both for exemption)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

CS(COMM) 952/2018 & IA's No.7927/2018 (u/O XXXIX R-1&2 CPC) & 7930/2018 (u/S 151 CPC)

3. The plaintiffs has sued for ejectment of the defendants after determination of the tenancy of the defendants at a rent in excess of Rs.3.500/- per month.

4. Though the valuation of the suit for the purposes of court fees and jurisdiction for the relief of ejectment is only Rs.18 lakhs @ Rs.1.5 lac per month but has been wrongly valued as Rs.36 lac which also is below the minimum pecuniary jurisdiction of this Court but the counsel for the plaintiffs by adding other reliefs has put the total value of the suit for the purposes of court fees and jurisdiction at Rs.1,08,90,130/- and labelling the

suit as ‘commercial suit’ has instituted the suit in this Court, the minimum pecuniary jurisdiction whereof is over Rs.2 crores.

5. The counsel for the plaintiffs has pleaded and contends that since the property let out to the defendant was used exclusively for trade and commerce, the dispute is a ‘commercial dispute’ within the meaning of Section 2(1)(c)(vii) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (Commercial Courts Act).

6. The counsel however forgets the amendment to the said Act vide The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 with effect from 3rd May, 2018 amending the definition of ‘specified value’ in Section 2(1)(i) of the Commercial Courts Act. With effect from the said amendment, the suit, even if were to qualify as a ‘commercial suit’, though I entertain doubts about the same, would still lie before the Court of the District Judge.

7. The plaint is accordingly ordered to be returned to the plaintiffs for filing in the Court of appropriate pecuniary jurisdiction.

8. The plaint along with the court fees and original documents, if any, on certified copies thereof being filed, be returned to the counsel for the plaintiffs in accordance with Rules in this regard.

RAJIV SAHAI ENDLAW, J.

JUNE 01, 2018

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