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

Decided on: 2nd February, 2018

+ TR.P.(C.) 182/2017

SUBHASHINI MALIK & ANR

..... Petitioners

Through: Mr. Samar Bansal, Advocate
with Mr. Ashvini Malik,
Advocate

versus

GEETA GANDHI & ANR.

..... Respondents

Through: Respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The parties are locked in litigation in two suits, both having been initially filed on the original side of this court. The civil suit (OS) No.1416/2009 instituted by the petitioner herein was the first in time in which the respondent is the defendant. The other suit, now registered as Suit No.10096/2016 - old CS (OS) No.3241/2011 – was instituted by the respondent herein against the petitioner, it also having been presented on the original side in this court. Subsequently, on account of change of the pecuniary jurisdiction, the second said suit, *i.e.* suit filed by the first respondent, was transferred to the file of the district court and is presently pending before the court of Additional District Judge-03, South-East at Saket District Court, presided over by

Mr. Mohinder Virat, ADJ. The suit of the petitioner, however, has been retained here against the backdrop that on her application she was allowed to state enhanced valuation of the relief, rendering it a case triable on the original side by this court.

2. It is pointed out that when both the suits were pending on the original side of this court, by order dated 25.02.2014, on IA No.1261/2012, with the consent of the first respondent, both the suits were consolidated for purposes of trial and decision. It is clear that both suits are between the said same set of parties and give rise to substantially common questions of facts.

3. The objection raised by the first respondent to the prayer in the transfer petition is that her appeal against the amendment of the plaint whereby the valuation has been enhanced is pending before the division bench of this court. In the considered view of this court, the reasons set out by the first respondent cannot come in the way. The decision rendered by the division bench, as and when granted, would regulate the proceedings thereafter. For the present, the directions earlier issued for consolidation of the two cases itself are sufficient to grant the relief on the transfer petition.

4. Thus, the petition is allowed. The civil suit - Suit No.10096/2016, titled *Geeta Gandhi vs. Subhanshini Malik & Ors.*, (old CS (OS) No.3241/2011) - pending on the file of Mr. Mohinder Virat, Additional District Judge-03, District South-East, Saket District Court, Delhi is withdrawn from the said court and transferred to the original side of this court for further proceedings in accordance with

law. The transferor court shall fix appropriate date directing the parties to appear before this court for further proceedings.

5. The petition stands disposed of in above terms.

R.K.GAUBA, J.

FEBRUARY 02, 2018

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