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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1521/2018
SHAILENDRA GHAI

..... Petitioner

Through : Mr.Prag Chawla and Mr.Sudeep
Sudan, Advs.

versus

ANIL GHAI & ORS

..... Respondents

Through : Mr.Atul Nigam with Mr.Randhir
Kumar, Mr.Anubhav Tyagi and
Mr.Paritosh Jain, Advs.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **12.12.2018**

Issue notice.

Learned counsel for the respondents accepts notice.

Learned counsel for the petitioner submits on 18.08.2018 the learned trial Court ordered the plaint to be returned to the plaintiff to be presented before the Court having pecuniary jurisdiction, hence it was ordered the original documents be returned after filing its certified copies thereof on the record. Against this order a review was filed by the petitioner which is now pending on 08.02.2019. An application to pre-pone the said review petition was dismissed on 04.12.2018, hence this petition.

The petitioner has not only asked for setting aside of order dated 04.12.2018 but also has sought directions for the learned trial

Court to transfer the suit file to the learned District Judge, Tis Hazari Courts since value of the suit was more than Rs.2 crores to be further transferred to this Court.

Admittedly, initially the suit was filed before this Court since the valuation of the suit was above Rs.20 lakhs. After the pecuniary jurisdiction of the District Courts were increased to Rs.2 crores this Court transferred this suit to the District Court and it was marked to the Court concerned.

On 18.08.2018 the learned trial Court came to the conclusion the aggregated value of the properties involved in the suit since is more than Rupees two crores hence it be tried by High Court. Thus it passed an order to return the plaint to the petitioner to be filed before this Court afresh.

It is the submission of both the learned counsels such an order could have been passed only where the suit was initially filed in the District Court and on appearance of the defendant, Court had considered the pecuniary jurisdiction was with High Court it may have returned the plaint to the plaintiff to be presented before this Court. However in the present case since the suit was transferred to the learned trial Court by the High Court and now since the value of the properties was found to be more than Rs.2 crores, the same procedure as of transfer of the suit to District Court ought to have been followed and resort to Order 7 Rule 10A CPC was not necessary in view of sub-rule 1 of Rule 10A.

Considering the submission it would be appropriate if the learned trial Court send the suit to the Court of District Judge where

after filing of deficient Court fee the file be sent to the Registrar General of this Court, to be listed before the concerned Roster Bench.

The petition stands disposed of in terms of above.

Copy of this order be given dasti to both the counsels under signatures of the Court Master.

YOGESH KHANNA, J.

DECEMBER 12, 2018

VLD