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

% *Date of Order: 25.02.2019*

+ **Tr. P. (C) No.18/2019**

MANOJ KAPOOR Petitioner

Through: Mr. Kislay Pandey, Mr. Anurag
Parashar & Mr. Harshit Behl,
Advocates.

Versus

DINESH SAIGALRespondent

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

C.M. No.8898/2019 (for exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

Tr. P. (C) No.18/2019 & C.M. Nos.8899/2019, 8900/2019

1. The petitioner seeks transfer of Civil Suit No.1688/2018 from the court of learned District & Sessions Judge, South-East District, New Delhi, to any other court of competent jurisdiction.
2. Learned counsel for the petitioner contends that the learned District & Sessions Judge did not grant an opportunity to the petitioner to engage a counsel. He submits that the learned Judge recorded the statement of the petitioner/defendant and passed an order on 14.01.2019 by which he has been prejudiced and for that reason, the petitioner has no faith in the said Court and the case may be transferred to any other court of the competent jurisdiction.

3. Admittedly, the petitioner was served with the summons of the suit on 05.12.2018. However, as required under Order VII Rule 1 of the Civil Procedure Code, 1908 ('CPC'), he failed to file his written statement within 30 days from the date of service of the summons. The petitioner also did not file any application for extension of time to enable him to file the written statement. The copy of the order dated 14.01.2019 indicates that there was no request by the petitioner to give him an opportunity to engage a counsel.

4. Further opportunity to file written statement was opposed by the respondent on the ground that the petitioner has been in arrears of the occupation charges to the tune of approximately Rs.20 lacs apart from the interest and damages. Impressed by the submissions, the Court proceeded to record the statement of the petitioner whereby he undertook to pay all arrears of rent/occupation charges within one month but expressed his inability to vacate the property in question for the time being.

5. Rule 2(i)(a) of Order X CPC empowers the Court, at the first hearing of the suit, to examine orally any of the parties to the suit appearing in person or present in the Court to elucidate the matter in controversy in the suit.

6. Finding the admissions made by the petitioner, the learned District & Sessions Judge by order dated 14.01.2019 directed the parties to address the arguments as to why the suit be not decreed on the basis of the admissions so made in the statement for the relief of possession. Order XII Rule 6 of the CPC further empowers the Court,

at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, to make such order or give such judgment as it thinks fit in view of the admission of the fact having been made either in the pleadings or otherwise, whether orally or in writing. It is not the case of the petitioner that the statement made by him on 14.01.2019 was not correctly recorded by the learned District & Sessions Judge.

7. The Civil Suit cannot be transferred on the mere notion of the litigant that the Judge has prejudiced him simply because he made a statement from which he wants to wriggle out. Further, a litigant stating that he has no faith in the Court because the order passed by the Court does not suit him, is a practice that deserves to be deprecated.

8. No case for transfer of the Civil Suit is made out, accordingly, the transfer petition along with applications, being C.M. Nos.8899/2019, 8900/2019, is dismissed with no orders as to costs.

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(VINOD GOEL)
JUDGE

FEBRUARY 25, 2019/‘AA’