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

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*Date of Judgment: 01<sup>st</sup> July, 2019*

+ **FAO(OS)(COMM) 140/2019**

**LALIT KUMAR JAIN & ORS**

..... Appellant

Through Dr. Abhishek Manu Singhvi, Senior Advocate, Mr. Sandeep Sethi, Senior Advocate, Mr. Rajiv Nayar, Senior Advocate with Mr. Nikhil Rohtagi and Mr. Raghavendra Bajaj, Advocates,

versus

**VISTRA ITCL (INDIA) LIMITED & ORS**

..... Respondents

Through Mr. Sanjeev Puri, Senior Advocate with Mr. Krishnendu Datta, Mr. Hardeep Sachdeva, Mr. Kamal Shankar, Mr. Parag Maint, Mr. Abhimayu Chopra, Mr. Priyank Ladio and Mr. Aman Sharma, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**G.S. SISTANI, J. (ORAL)**

1. The present appeal arises out of an order dated 28.05.2019 passed by a learned Single Judge of this Court on an application filed along with the suit by the respondents no.1 and 2 herein (plaintiffs in the suit). The appellants appeared through Senior Counsels in the matter after going through the list. The learned Single Judge has passed a detailed interim

order, which has led to the filing of the present appeal.

2. We may notice that this appeal was listed before a Vacation Bench on 03.06.2019 and thereafter on 07.06.2019, 12.06.2019, 26.06.2019 and 28.06.2019. On two dates, i.e. 07.06.2019, when the matter was listed on account of correction of typographical error and on 12.06.2019 when another application was filed.
3. Dr. Singhvi, Mr. Sandeep Sethi and Mr. Rajiv Nayar, learned Senior Counsels appearing for the appellants submit that the learned Single Judge was completely mis-led into passing the interim order. It is contended that firstly, Courts at Delhi would have no jurisdiction in the matter as the suit property is situated in Pune and Courts in Pune would have jurisdiction in the matter. Secondly, the learned Senior Counsels contend that the present suit would not be maintainable as the appellants herein have already instituted a suit prior in point of time with respect to an identical subject matter and almost identical prayers and relevant parties have already been arrayed in the aforesaid matter. It has also been contended that the learned Single Judge was mis-led and resultantly the order was passed which has extreme and drastic consequences on the appellants, including appellant no.3, which is only a real estate company and in view of the interim order passed, it cannot perform its obligations arising out of the prior transactions with various companies/buyers, who have no role or connect with the subject matter of the suit and also the effect of the interim order passed by the learned Single Judge would be such that the appellants cannot even pay their Income Tax.
4. Mr. Puri, learned Senior Counsel appearing for the respondents submits

that the Courts at Delhi alone would have jurisdiction. He further submits that during vacations, time was granted to file written statements which were filed by the appellants and he would file replication within two days.

5. We have heard the learned Senior Counsels appearing for the parties and considered their rival submissions.
6. Reading of the impugned order would show that although the appellants were present, but they were not served with an advance copy of the plaint. Although the learned Single Judge has noticed some of the objections, but we are of the view that the matter should be decided by the learned Single Judge at an early date taking into consideration all the grounds which have been raised in this appeal and on the basis of the written statements and documents which have been filed by the parties.
7. It is agreed that both the parties will not seek an adjournment before the learned Single Judge when the matter would be listed before the learned Single Judge on Thursday, i.e. 04.07.2019. We have no hesitation in saying that the learned Single Judge would take up the application on the said date and decide the same expeditiously after granting opportunity of hearing to the parties on the basis of the pleadings and documents. We are conscious of the fact that when the matter was listed on the first date of hearing, the learned Single Judge did not have the benefit of the pleadings and documents and neither the appellants had the benefit of the paper book.
8. Mr. Puri submits that respondents be permitted inspection of the documents filed by the appellants. Mr. Sethi, learned Senior Counsel

for the appellants submits that the original documents stand filed and copies have been supplied. As prayed, the respondents are permitted to examine the documents.

9. With these directions, the appeal stands disposed of.

**CMs.APPL 28256/2019, 28369/2019 & 28653/2019**

10. The applications stand disposed of in view of the order passed in the appeal.

**CM.APPL 28969/2019**

11. The application filed by the respondents is dismissed as withdrawn, leave as prayed is granted to file a fresh application before the learned Single Judge.

12. Dasti.

**G.S. SISTANI, J**

**JYOTI SINGH, J**

**JULY 01, 2019**

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