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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(C.) 100/2019 & CM No. 32579/2019**

VARUN KRISHAN VIJ

..... Petitioner

Through: Mr Trideep Pais, Ms Sanya Kumar
and Mr Rakshanda Deka, Advocates.

versus

AJAY CHAUDHARY & ANR

..... Respondents

Through: Mr S. P. Malik, Advocate for R-1.
Mr Vijay Shankar, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.08.2019

1. The petitioner has filed the present petition, *inter alia*, praying that the suit bearing C.S. No. 9142/2016 captioned '*Alethea Infracon Pvt. Ltd. v. Varun Krishan Vij & Anr.*', which is currently pending before the learned Additional District Judge, Saket (South), New Delhi be withdrawn and transferred to the original side of this Court to be heard along with the Suit bearing C.S.(OS) No.158/2017 captioned '*Ajay Chaudhary v. Varun Krishan Vij*'.

2. The issues have been framed in both the said suits and it is contended that there is element of commonality in the issues. In the suit bearing C.S.(OS) No.158/2017, which is pending before this Court, an issue has been framed as to whether the plaintiff is entitled to receive a sum of ₹1.1 crores. In the suit pending before the learned ADJ, Saket (South), an issue has been framed as to whether the amount of ₹1.1 crore claimed by the plaintiff therein (Alethea Infracon Pvt. Ltd.) has been adjusted in the Settlement Agreement dated 18.02.2015 between defendant no.1 and defendant no.2. It is relevant to note that defendant no.2 in that suit (Ajay

Chaudhary) is the plaintiff in C.S.(OS) No.158/2017.

3. The learned counsel appearing for the respondent does not dispute that there is an element of commonality in the issues involved. He, however, states that the transfer of the suit would delay the proceedings in relation to an application filed under Order XXII Rule 6 of the Code of Civil Procedure, 1908 (CPC) for a decree on admissions. He states that the said application is listed for hearing on 20.08.2019. It is stated that the Suit before this Court is listed on 11.10.2019 for evidence.

4. In view of the above, this Court considers it apposite to direct withdrawal of the suit pending before the learned ADJ (C.S. No.9142/2016 captioned '*Alethea Infracon Pvt. Ltd. v. Varun Krishan Vij & Anr.*'), albeit, after the pending application under Order 12 Rule 6 of the CPC has been decided by the concerned ADJ and subject to the suit surviving thereafter.

5. In this view, the learned ADJ is requested to consider the said application on the date already fixed and dispose of the same as expeditiously as possible and preferably, within a period of four weeks from today. In the event the plaintiff therein prevails in the said application, there would be no requirement for the withdrawal of the said suit. However, if the plaintiff fails in the said application, the records of the suit would be transferred to this court to be considered along with C.S.(OS) 158/2017.

6. The petition is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

AUGUST 08, 2019/MK