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

% Judgment delivered on: 05.09.2019

+ C.R.P. 184/2019

KIRASHWATI

..... Petitioner

versus

SANJAY & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Yogesh Sharma, Advocate.

For the Respondent: None.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.36904/2019 (exemption)

Exemption is allowed subject to all just exceptions.

C.R.P. 184/2019 & CM APPL.36903/2019 (for interim order)

1. Petitioner impugns order dated 27.05.2019, whereby, the application of the petitioner under Order XXXIX Rule 2A CPC has been deferred and parties have been directed to move an application seeking consolidation/transfer of the subject suit to the Court of District & Sessions Judge where another suit on the same subject matter is alleged to be pending.

2. Learned counsel for the petitioner submits that the other suit, which

is pending before the Court of District & Sessions Judge, is a suit also filed by the plaintiffs with regard to a portion in possession of one Ms. Veena Nagar, who is occupying the second floor of the subject property and the present suit pertains to the ground floor and the first floor of the subject property and the defendants in the present suit are different from the defendant in the other suit.

3. The Trial Court has directed the parties to move an application seeking consolidation/transfer of the subject suit.

4. No such power is vested with the Trial Court to defer the consideration of a pending application and direct the parties to seek transfer when the parties have not sought for transfer or prayed for any such relief from the concerned Court. The Trial Court could not have deferred consideration of the application on the said ground.

5. Further, it is observed that the Trial Court has not passed any order on the merits of the said application and has simply deferred the same.

6. Since no order has been passed by the Trial Court, the petition filed by the petitioner is not maintainable. The same is accordingly dismissed. The Trial Court is however directed to dispose of the application under Order XXXIX Rule 2A CPC filed by the petitioner expeditiously in accordance with law.

7. Order *Dasti* under signatures of the Court Master.

SEPTEMBER 05, 2019/st

SANJEEV SACHDEVA, J