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

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Judgment delivered on: 03.04.2019

+ CRL.REV.P. 661/2016

SWAMI SHARAN

..... Petitioner

versus

SMT SIVANI SHARAN & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr.Jatin Rajput, Adv. with petitioner in person.

For the Respondent : Mr.Zishaan Iskandari, Amicus Curiae with respondent in person.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

03.04.2019

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner-Husband impugns order dated 31.05.2016 whereby the application of the petitioner seeking appointment of a Local Commissioner to verify the address of the petitioner has been dismissed.

2. Learned Counsel for the petitioner submits that the trial court did not have the jurisdiction to entertain the petition as admittedly the respondent is the resident of Noida and petitioner is also resident of

Noida and no part of cause of action has arisen within the territorial jurisdiction of Delhi.

3. The petitioner had filed the subject application seeking appointment of a Local Commissioner to examine the landlord of the said property so as to ascertain if the petitioner ever resided in the said property or not.

4. The trial court has noticed that the address of the petitioner as mentioned by the respondent-wife was House No. 492, DDA LIG Flats, Mayur Vihar, Delhi.

5. Trial court, by the impugned order, noticed that the petitioner had been served with the notices issued by the Court personally at the above referred address at Mayur Vihar and held that prima facie it seemed that the Court did have the jurisdiction. Accordingly, the trial court held that it had jurisdiction to entertain the petition.

6. Trial court, by the impugned order, however, has given opportunity to the petitioner-husband to prove at trial that he has not resided at Delhi at the address mentioned above and this Court did not have the jurisdiction.

7. Perusal of the report of the process server dated 07.11.2014, which is on record at page 25, clearly indicates that the process server had gone to the address at Mayur Vihar and he met the petitioner. Summons was received by the petitioner under his own signatures. In

that view of the matter, there is no error in the impugned order of the trial court in prima facie holding that the Courts at Delhi have territorial jurisdiction.

8. In that view of the matter, I find no merit in the petition. The petition is accordingly dismissed.

9. Further, learned counsels for the parties have exchanged their calculations. As per the calculations, a sum of Rs. 1.51 lakhs is to be paid by the petitioner to clear the entire arrears till 30.04.2019.

10. Learned counsel for the respondent, under instructions, submits that the child of the parties is to be admitted in the school and the admission fee of Rs. 65,000/- (approx.) is to be deposited within a week.

11. Learned counsel for the petitioner, under instructions, from the petitioner who is present in Court undertakes that the said sum of Rs. 65,000/- shall be transferred to the account of the respondent on or before 06.04.2016. He further undertakes that the balance amount of Rs. 86,000/- shall be paid to the respondent on or before 04.05.2019.

12. He further undertakes that the petitioner shall file an affidavit, before the trial court, in terms of the judgment of this Court dated 14.01.2015 in FAO 369/1996 in *Kusum Sharma vs. Mahinder Kumar Sharma*, along with supporting documents within four weeks from today with advance copy of the same to respondent. Respondent may

file response, if any thereto, before the next date fixed before the trial court i.e. 14.05.2019.

13. Petitioner further undertakes that the petitioner shall continue to pay the said amount of Rs. 14,000/- per month to the respondent. This payment of Rs. 14,000/- would be without prejudice to the rights and contentions of the parties and would be subject to further orders of the trial court.

14. The petition is disposed of in the above terms.

15. List for reporting compliance on 08.04.2019.

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

APRIL 03, 2019
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SANJEEV SACHDEVA, J