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

+ **TR.P.(C.) 172/2018 & CM No. 37632/2018**

SHELLY KAPUR

..... Petitioner

Through: Ms Deepti Kathpalia and Ms Rekha
Sharma, Advocates.

versus

PROMIL KAPOOR

..... Respondent

Through: Mr Harshvardhan Pandey, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.05.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“In view of the above and in the interest of justice it is therefore most respectfully prayed that the suit no. 268 of 2017 pending before the court of Ms. Vineeta Goyal, Ld. ADJ, Saket Court, New Delhi may be transferred to this Hon'ble Court and listed alongwith CS(OS)3438 of 2014 so that both can be consolidated and heard together.”

2. The petitioner herein is the daughter-in-law of the respondent.

3. The respondent had filed the suit bearing no.268/2017 seeking eviction of the petitioner from the property bearing no.J-5, Saket, New Delhi-110019. The respondent claims that the said property is her self-acquired property.

4. Two minor children of the petitioner have also filed a suit through the

petitioner before this Court, CS(OS) 3438/2014, *inter alia*, claiming several properties to be joint properties on the ground that the same have been acquired by ancestral funds. The petitioner claims that the two suits involve common issues and, therefore, the same should be tried together.

5. It is pointed out by the learned counsel appearing for the respondent that the suit pending before this Court (CS(OS) 3438/2014) is at an initial stage, inasmuch as the issues have not been framed. He further states that arguments regarding the maintainability of the said suit are being considered.

6. Insofar as Suit No.268/2017 is concerned, this Court is informed that four of the witnesses on behalf of the defendant have been examined. It is also pointed out that the petitioner has filed an application, under Section 10 of CPC before the learned ADJ. Arguments in respect of the said application were heard and the orders are reserved.

7. Given the stage of the suit pending before this Court, this Court does not consider it apposite to allow the present petition. Apparently, there is a controversy regarding the maintainability of the said suit and the said question is pending consideration. In this view, the petition is dismissed. However, it is clarified that the petitioner would not be precluded from filing afresh at a later stage, if necessary. The pending application is disposed of.

VIBHU BAKHRU, J

MAY 07, 2019
MK