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

+ **CS(OS) 628/2016**

TEAM COLONIZERS P. LTD. Plaintiff

Through: Mr. Subhash Chandra, Adv.

Versus

D.S.J. INFRA PROJECTS Defendant

Through: Mr. Prag Chawla and Mr. Sudeep
Sudan, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **11.01.2019**

1. This suit for mandatory injunction instituted in the Court of the Civil Judge, Almora, Uttarakhand, vide order dated 17th October, 2016 of the Supreme Court in Transfer Petition (Civil) No.749/2016 has been “transferred to a Court of competent jurisdiction at New Delhi”.

2. Though the order was for transfer to a Court of competent jurisdiction but the suit was transferred to this Court, minimum pecuniary jurisdiction whereof is of over Rs. 2 crores, and inspite of the said fact taken note of in para 6 of the earlier order dated 21st February, 2017, the suit has been languishing in this Court since then, earlier on the request of the plaintiff to file an application for amendment of the plaint on the aspect of pecuniary jurisdiction and now, on filing of the said application, for consideration of the said application.

3. The pleadings and the documents in the suit which were received on transfer, are in Hindi language and no translation thereof in English language has been filed as yet.

4. Be that as it may, the counsel for the plaintiff states (i) that the plaintiff has instituted the present suit for mandatory injunction directing the defendant not to shift, destroy or transfer the articles of the plaintiff which are kept in Jindal International School (Himanshu Educational Society) at Village Nainisar, Tehsil Ranikhet, District Almora, Uttarakhand and for a direction to the defendant to release the amount for the work done and for the articles as mentioned in Annexure-A to the plaint and which amount is found to be in excess of Rs.2 crores; and, (ii) that the plaintiff has since filed a separate suit against the defendant for recovery of the monies shown in Annexure-A and which is pending before this Court.

5. A perusal of the English copy of the plaint filed in the Supreme Court and handed over by the counsel for the defendant now, shows the valuation of the present suit for the purpose of jurisdiction to be Rs.25,70,02,345/- and court fees having been paid on Rs.500/-, purportedly the valuation for the purposes of court fees.

6. Per Section 7 (iv) of the Court Fees Act, 1870 and Section 8 of the Suits Valuation Act, 1887, the valuation of a suit for injunction has to be the same for the purpose of court fees and jurisdiction.

7. Option has thus been given to the counsel for the plaintiff to, either pay the court fees on the jurisdictional value or to take the present suit to the Court of the competent Civil Judge, within whose pecuniary jurisdiction the suit as per the valuation for the purpose of court fees falls.

8. The counsel for the plaintiff states that the suit be transferred to the Civil Judge.

9. On enquiry, it is stated that as per the office of the defendant at Delhi, Patiala House Court, New Delhi will have jurisdiction.
10. The suit is accordingly ordered to be put up before the Court of the Senior Civil Judge, New Delhi, Patiala House Court, New Delhi.
11. The parties to appear before the Court of Senior Civil Judge and/or the concerned Civil Judge, Patiala House Courts, New Delhi to whom the suit is assigned, on 7th March, 2019.

RAJIV SAHAI ENDLAW, J.

JANUARY 11, 2019
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