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

+ **CONT. CAS. (CRL.) 15/2018 & Crl.M.A.Nos.3206/2019,
7590/2019**

CAPITAL VENTURES PVT. LTD.

..... Petitioner

Through: Mr.Chander M.Lall, Sr.Advocate with
Mr.Mohan Vidhani, Mr.Rahul
Vidhani and Ms.Nancy Roy,
Advocates.

versus

KRBL LTD. & ORS.

..... Respondents

Through: Mrs.Geeta Luthra, Mr.Akhil Sibal and
Mr.Vikas Pahwa, Sr. Advocates with
Mr.S.K.Bansal, Mr.Rishi Bansal and
Mr.Ajay Amitabh Suman, Advocate
for R-1, 2, 4, 5 & 6.
Mr.Pushkin Rajkumar, Advocate for
intervenor – Chennai Gate
Ms.Pratibha and Ms.Uma Devi,
Advocates for R-3
Mr.Shailen Bhatia, Sr.Advocate with
Ms.Ekta Nayar and Ms.Neelam
Pathak, Advocates for intervenor in
Crl.M.A. 34354/2018
Ms.Sunanda Tulyan and Ms.Aarti
Manchanda, Advocates for intervenor
in Crl.M.A. 3449/2018

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Date of Decision: 19th December, 2019

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J (Oral):

1. Present criminal contempt petition has been filed alleging primarily that the respondents had indulged in 'forum shopping' as they repeatedly moved marking applications to get their intellectual property right cases listed before some particular Trial Court Judges.
2. The learned Predecessor Bench of this Court vide order dated 15th October, 2018 had observed as under:-

"The grievance highlighted in the present contempt petition as well as in the intervention application raises very serious concerns about the manner in which the matters particularly, suits are listed before a particular Judicial Officer in the District Courts. The petitioner and the intervenors has brought out several instances where the same counsel representing the respondents has moved repeated applications in different suits to have the different suits listed before particular Judicial Officers, namely, Mr. Mukesh Kumar, Ms Veena Rani and Mr. Chandrasekhar. The petitioners claim that favourable orders were obtained by the respondents from the said Judicial Officers to which they were not entitled on merits.

xxx xxx xxx

Without casting any aspersion either on the counsel or on the Judicial Officers, with a view to keep the streams of justice clear from any such allegations, we direct that the IPR suits preferred by the respondents be not listed before the aforesaid three Judicial Officers and if so listed, be assigned to some other courts by the concerned District & Sessions Judge.

We also direct that applications for marking/ listing which are moved henceforth be all scrutinised by the District & Sessions Judge, after calling for the judicial records of the suits/ proceedings already pending, and the fresh suits/

proceedings sought to be instituted and got marked/ listed before a particular Judicial Officer, so as to satisfy himself that the application has been moved justifiably, before the application is allowed.”

(emphasis supplied)

3. Subsequently, various impleadment applications have been filed by third parties against whom injunction had been obtained by the respondents.

4. The petitioner has also filed an impleadment application seeking impleadment of the counsel for the respondents on the ground that the respondents have taken a defence that they neither had knowledge nor had instructed their counsel to file marking applications.

5. Learned counsel for the respondents state that the respondents support the action taken by their counsel. However, counsel for the petitioner alleges to the contrary.

6. From the pleadings and documents on record, it is apparent that the present matter involves highly disputed questions of facts.

7. It is pertinent to mention that none of the judicial officers mentioned in the order dated 15th October, 2018 have been made parties to the present case. Due to legal immunity, they, in any event, cannot be impleaded in the present proceedings. In their absence, it is well-nigh impossible to conclude that the respondents had indulged in ‘forum shopping’ with intent to obtain favourable orders.

8. The allegation of ‘forum shopping’ also needs a structured response inasmuch as a transparent procedure has to be put in place as to how a matter is to be marked in each jurisdiction especially when one of the parties prays that its case be listed before a particular Court.

9. Consequently, we close the present petition with a direction to the Registry to place the matter before Hon'ble the Chief Justice on the administrative side with a request to get all the allegations mentioned in the petition and in the order dated 15th October, 2018 enquired either through a committee of officers or Hon'ble Judges on the administrative side. If the said allegations are found to be correct, then Hon'ble the Chief Justice shall take action in accordance with law including putting in place a transparent mechanism for marking of cases in the Trial Courts so as to avoid occurrence of such further incidents.

10. The interim order dated 15th October, 2018 shall continue to remain in force till the Hon'ble Chief Justice takes a decision with regard to the findings of the enquiry report. However, it is clarified that the present order does not cast any aspersion either on the counsel or on the judicial officers mentioned in the order dated 15th October, 2018.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 19, 2019
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