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

+ **TR.P.(C.) 54/2022**

EPICURIA GALLEY PRIVATE LIMITED Petitioner

Through: Mr. Rajesh Yadav, Sr. Adv. with Ms.
Ruchira, Adv.

versus

ASPEN BUILDTECH LIMITED Respondent

Through: Mr. Vikram Sobit, Adv.

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Date of Decision: 5th August, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CM APPL. 34340/2022 (Exemption)

Exemption is allowed subject to all just exceptions.

TR.P.(C.) 54/2022

This is a transfer petition under Section 24 of the CPC for transfer of Civil Suit bearing CS no. 22/2018 titled “Epicuria Galley Private Limited v. Aspen Buildtech Limited” from the Court of learned ADJ -03, Patiala House Courts, New Delhi to this Court.

Learned counsel for the petitioner submits that initially a suit for declaration, permanent and mandatory injunctions was filed by the petitioner



in which the valuation of the suit for the purpose of court fees was fixed at Rs.71,63,315/-

Subsequently, an application under Order 23 Rule 1 Sub Rule 1 & 3 was moved by the plaintiff-petitioner seeking permission to withdraw the present suit with liberty to file fresh suit for damages.

This application was allowed by the learned Trial Court vide order dated 28th January, 2019. The respondent herein preferred a revision petition against this order. This Court in C.R.P. No.57/2021 allowed the revision petition and remanded the matter back to the learned Trial Court, however, the petitioner herein was granted liberty to seek amendment of the plaint to incorporate the relief of damages in addition or in substitution to the plaint for specific performance.

Pursuant to this, an application under Order 6 Rule 17 CPC was moved and the same was allowed.

Subsequent to the amendment, the valuation of the suit for the purpose of court fees and jurisdiction has been valued @ Rs. 16, 53, 89, 632/-. Apparently, this is beyond the peculiar jurisdiction of the learned Trial Court/learned District Court. Hence, a prayer has been made for the transfer of the Civil Suit bearing CS no. 22/2018 titled “Epicuria Galley Private Limited v. Aspen Buildtech Limited” from the Court of learned ADJ -03, Patiala House Courts, New Delhi to this Court.

Issue notice.



Mr. Vikram Sobit, learned counsel accepts notice on behalf of the respondent.

Learned counsel for the respondent submits that he has no objection to the transfer of the case and further submits that rather he had also moved an application before the learned Trial Court for transfer of the case from District Court to this Court.

In view of the submissions made, the Civil Suit bearing CS no. 22/2018 titled “Epicuria Galley Private Limited v. Aspen Buildtech Limited” is withdrawn from the Court of learned ADJ -03, Patiala House Courts, New Delhi to this Court. The transferee Court is directed to send the entire record in digital form to this Court.

Let the copy of this order be sent to the learned Principle District and Sessions Judge, New Delhi for necessary compliance.

Parties are directed to appear before the Registrar General of this Court on 29th August, 2022.

Accordingly the present petition stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 5, 2022

Pallavi