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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **TR.P.(C.) 42/2021****LOTUS FINANCE CORP LTD**

..... Petitioner

Through: Mr.Atul Sinha, Adv.

versus

PADMINI POLYMERS LTD & ANR.

..... Respondents

Through: Ms. Pallavi Chopra, Adv. for R-1
(through VC)Ms. Monisha Handa, Adv. for R-2
(through VC)

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Date of Decision: 2nd September, 2022**CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J. (Oral)**

1. The present transfer petition has been filed under Section 24(1) (b) (i) read with Section 151, CPC for withdrawing the suit bearing number 391/17 (ID No.609769/16) titled as "***Lotus Fun Corp Ltd. V. Padmini Polymers Ltd and Anr.***" pending before the learned ADJ-07, Tis Hazari Courts to this Court.
2. Learned counsel for the petitioner submits that in fact originally, the suit was filed before this Court and subsequently, on account of enhancement of the pecuniary jurisdiction, the suit was transferred to the District Court.



3. It has been further submitted that vide order dated 11th April, 2019, this Court inter alia held that the relief of declaration sought by the plaintiff in the plaint is not a simpliciter for declaration but a declaration with consequential relief and therefore the suit has not properly valued and the plaintiff has not paid the ad-valerom court fees on the said relief.
4. Learned ADJ further vide order dated 28th August, 2019 directed the plaintiff to value the suit correctly for the purpose of jurisdiction and court fee and also to pay the court fees, failing which the plaint was directed to be rejected in view of the provisions under Order 7 Rule 11(b) and 11 (c) of CPC.
5. The review application filed against the order was also dismissed vide order dated 19th December, 2020.
6. Learned counsel for the petitioner submits that in view of this, it would be in the interest of justice, if the matter is transferred to this Court and disposed of in accordance with law.
7. Learned counsel for the respondent No.1 submits that she does not oppose the request of the petitioner and the suit may be withdrawn from the Court of the learned ADJ-07, Tis Hazari Courts and be transferred to this Court for disposal in accordance with law.
8. Learned counsel for the respondent No.2 has failed to file the counter affidavit despite opportunity being given.
9. It is an admitted fact that the case is at the stage of final arguments. Section 24 (1) (b) (i) of CPC permits this Court to withdraw any suit pending in any Court, Sub-Ordinate to it and to trial of dispose of the same.
10. In view of the submissions made above, the suit bearing number



391/17 (ID No.609769/16) titled as “*Lotus Fun Corp Ltd. V. Padmini Polymers Ltd and Anr.*” is withdrawn from the Court of the learned ADJ-07, Tis Hazari Courts and transferred to this Court for disposal in accordance with law.

11. Learned ADJ- 07, Tis Hazari Courts is directed to send the complete record in physical as well as its digital form to this Court immediately.
12. Copy of this order be sent to the learned Principal, District and Sessions Judge, Central for necessary compliance.
13. Parties are directed to appear before the Registrar General of this Court on 14th September, 2022.
14. With these observations, the petition stands disposed of.

SEPTEMBER 2, 2022

Pallavi

DINESH KUMAR SHARMA, J

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