



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

Date of decision: 18th JULY, 2022

IN THE MATTER OF:

+ **TR.P.(C.) 47/2021& C.M. No. 19833/2022**

SATYANARAIN KHANDELWAL Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates

+ **TR.P.(C.) 49/2021& C.M. No.19846/2022**

ISHWAR SINGH Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates



Advocates

+ **TR.P.(C.) 52/2021& C.M. No. 19842/2022**

PRAKASH CHAND MODI

..... Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA

..... Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates

+ **TR.P.(C.) 54/2021**

MAHAVEER BANSAL

..... Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA

..... Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates

+ **TR.P.(C.) 55/2021& C.M. No. 19840/2022**



RADHEY SHYAM

..... Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA

..... Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates

+ **TR.P.(C.) 58/2021& C.M. No. 19883/2022**

MANOJ KUMAR BANSAL

..... Petitioner

Through: Mr. Praveen Suri and Ms. Komal Chhibber, Advocates

versus

PREM ARORA

..... Respondent

Through: Mr. Vipin Nandwani, Advocate for the Respondent No.1 & 2

Dr. Amit George, Standing Counsel, Delhi High Court with Mr. Rishabh Dheer & Mr. Amol Acharya, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

**SUBRAMONIUM PRASAD, J**

1. TR.P.(C.) 47/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.574/2017, titled as Prem Arora &Anr. v. Satyanarayan Khandelwal, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.
2. TR.P.(C.) 49/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.578/2017, titled as Prem Arora &Anr. v. Ishwar Singh, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.
3. TR.P.(C.) 52/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.572/2017, titled as Prem Arora &Anr. v. Prakash Chand Modi, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.
4. TR.P.(C.) 54/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.576/2017, titled as Prem Arora &Anr. v. Mahavir Bansal, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.
5. TR.P.(C.) 55/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.579/2017, titled as Prem Arora &Anr. v. RadheyShyam, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.



6. TR.P.(C.) 58/2021 has been filed under Section 15(5) of the Commercial Courts Act, 2015, for the transfer of Civil Suit bearing No.573/2017, titled as Prem Arora &Anr. v. Manoj Kumar Bansal, which is pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.

7. The facts leading to the instant petitions are as under:

- a) It is stated that the Respondent No.1 in the instant petitions is the son of the Respondent No.2 herein, and the Petitioners herein are the Tenants in the property bearing No. RZ- 21/284, Gitanjali Park, West Sagarpur, New Delhi, 110046 (*hereinafter referred to as 'the suit property'*). It is stated that the mother of Respondent No.1 herein was the owner of the suit property and that there are total nine shops in the suit property. It is stated that the mother of Respondent No.1 executed a GPA dated 11.05.2009, Will dated 11.05.2009 and Gift Deed dated 06.06.2014 in favour of Respondent No.1, thereby making Respondent No.1 the owner of the suit property. It is stated that the Petitioners herein were inducted as Tenants in the suit property by Respondent No.2 and Rs.10,000/- had been taken from each of the Petitioners as security amount.
- b) It is stated that Respondent No.1 approached the Petitioners for selling to them the shops located in the suit property and took an advance from each of the Petitioners. It is stated that an Agreement to Sell was executed by the Respondent No.1 on 06.01.2014, and the security amount which had been taken by Respondent No.1 from all the Petitioners herein was adjusted by giving receipts on the Agreement to Sell itself. The details of the



cheques taken from the Petitioners, along with the total amount and the security amount that had been taken from the Petitioners, has been reproduced as under:

S. No.	Name (Shop No.)	06.01.2014	14.01.2014	30.01.2014
1.	Sh. Ishwar Singh (1)	Rs. 2 lakhs by way of cheque bearing No.162240 dated 25.11.2013	Rs.3 lakhs	Rs. 7 Lakhs after adjusting the security amount of Rs.10,000/-
2.	Sh. Prakash Chand Modi (2 & 3)	Rs.4 lakhs by way of cheque bearing No.034250 dated 17.11.2013	Rs. 6 lakhs	Rs.14 lakhs after adjusting the security amount of Rs.50,000/-
3.	Sh. Manoj Kumar Bansal (4)	Rs.2 lakhs by way of cheque bearing No.381871 dated	Rs.3 lakhs	Rs.7 lakhs after adjusting the security amount of Rs.65,000/-



		25.11.2013		
4.	Sh. Mahaveer Bansal (7)	Rs.2 lakhs by way of cheque bearing No.515659 dated 17.11.2013	Rs. 3 lakhs	Rs. 7 lakhs after adjusting the security amount of Rs.10,000/-
5.	Sh. RadheySh yam (8)	Rs. 2 lakhs by way of cheque bearing No.050981 dated 25.11.2013	Rs. 3 lakhs	Rs. 7 lakhs after adjusting the security amount of Rs.10,000/-
6.	Sh. Satyanarai n Khandelw al (9)	Rs. 2 lakhs by way of cheque bearing No.895079 dated 20.11.2013	Rs. 3 lakhs	Rs. 7 lakhs after adjusting the security amount of Rs.10,000/-

- c) It is stated that Respondent No.1 was not the owner of the property when the Agreement to Sell was entered into and extension was sought by Respondent No.1 with regard to the execution of the Agreement to Sell dated 16.01.2014 with



respect to the shops situated in the suit property. It is stated that Respondent No.1 had also informed the Petitioners that there was no requirement for them to pay any rent on the ground that they were virtually the owners of the shops situated in the suit property.

- d) It is stated that thereafter Respondent No.1, along with Respondent No.2 filed suits against the Petitioners herein for possession of the shops in the suit property, arrears of rent and mesne profits.
- e) It is stated that written submissions were filed by the Petitioners and replications to the same were filed by Respondent No.2. It is to be noted that in replication filed by the Respondent No.1, he denied entering into the Agreement to Sell dated 16.01.2014 and submitted that the Petitioners were using false evidence against him as the Agreements to Sell did not bear his signatures. It is stated that thereafter, in December 2018, the Petitioners filed suits for specific performance and permanent prohibitory injunction against the Respondents.
- f) It is stated that transfer petitions were filed by the Petitioners for transfer of the suit filed by the Respondents to the Court where the suits filed by the Petitioners were pending on the ground that the parties had raised a common substantial issue. It is stated that *vide* Order dated 05.02.2019, the learned District and Sessions Judge, Patiala House Courts, allowed the transfer petition and transferred the petition filed by the Petitioners to the Court of Additional District Judge, Patiala House Courts, where the suits filed by the Respondents herein were pending.



- g) It is stated that thereafter an application under Section 151 CPC was filed by the Petitioners for consolidation of the suit filed by the Respondents with the suit that had been filed by the Petitioners on the ground that both raised common substantial issues and evidence in both the matters was also common. It is stated that *vide* Order dated 25.11.2020, the learned Trial Court dismissed the said application and thereafter a review application of the Order dated 25.11.2020 was filed which was dismissed *vide* Order dated 25.06.2021. It is stated that thereafter a Civil Miscellaneous Petition was filed before this Court for setting aside the Orders dated 25.11.2020 and 25.06.2021, and this Court *vide* Order dated 02.09.2021 dismissed the said petition as withdrawn.
- h) The Commercial Courts, Commercial Division and Commercial Appellate Division Act, 2015 (*hereinafter referred to as '2015 Act'*), was enacted by the Legislature under which all suits over a sum of Rs.1 Crore were to be transferred from Ordinary Courts to the designated Commercial Courts. Sections 2 (i) and 15 (5) of the 2015 Act reads as under:

“2(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12³ [which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government.

15(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division



of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.”

The 2015 Act, was amended in the year 2018 in which all suits relating to a commercial dispute over a sum of Rs.3 lakhs filed on or before the institution of the Amending Act, 2018, were to be transferred to the designated Commercial Courts. Furthermore, the title of the 2015 Act was shortened to Commercial Courts Act, 2015.

- i) The Petitioners have now approached this Court by filing the instant petitions for the transfer of the Civil Suits which are pending before Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court on the ground that the suits are commercial in nature and pertain to “*commercial disputes*” as defined under the 2015 Act.
- j) The short question which arises before this Court is whether the Commercial Courts (Amendment) Act, 2018 (*hereinafter referred to as ‘the Amending Act’*) would apply retrospectively to the instant petitions or not and *vide* Order dated 25.03.2022, notice was issued to the High Court seeking a response with regard to the same.

8. Mr. Praveen Suri, learned Counsel appearing for the Petitioners, at the outset, submits that the 2015 Act was enforced for the purpose of hearing



matters of a high pecuniary value involving commercial disputes in order to increase the ease of doing business. He states that, as per this Act, the specified value of such matters was fixed at Rs. One Crore and, therefore, any matter with the value of Rs. One Crore or above was to be heard by a designated Commercial Court. He states that as per Section 15(5) of the 2015 Act, cases relating to matters involving the specified value which were pending before any Civil Court in any District or area would be transferred to a Commercial Court.

9. Mr. Suri contends that the Amending Act, 2018 was brought in for the purpose of lowering the specified value to Rs. Three Lakhs, amongst other things. He states that the Amending Act established a Commercial Court at the District Court level, a Commercial Division at the High Court, and a Commercial Appellate Division again at the High Court. He further brings to the notice of this Court Section 19 of the Amending Act by stating that even though the Amending Act was to apply to cases filed on or after the institution of Amending Act, the Saving Clause enumerated in Section 19 conveyed that the Amending Act would have a retrospective impact to the extent that pending cases of the lowered specified value could also be transferred to a Commercial Court.

10. Mr. Praveen Suri, learned Counsel appearing for the Petitioners, submits that if the suits filed by the Petitioners are not transferred under Section 15 of the 2015 Act, the purpose of the said provision would stand defeated. He states that the Amending Act does not make any changes to Section 15 of the 2015 Act and that this demonstrates the intention of the Legislature in saving the effect of Section 15 of the 2015 Act, and for allowing transfer of *pending* cases of value lesser than one Crore as had been the case before the Amending Act had been promulgated.



11. The learned Counsel for the Petitioners further relies on the judgment dated 14.09.2021, passed by this Court in **C.R.P. 61/2021**, titled as Mr. Hari Singh v. MS Superhouse Ltd., wherein a direction had been given to the District Judges and District Courts to ensure that disputes which are of commercial nature are transferred to Commercial Courts so that orders could be passed in accordance with law.

12. Learned Counsel for the Petitioner also states that by virtue of Section 19 of the Amending Act, the intention of Section 15 of the 2015 Act is saved and that a purposive interpretation must be given to the said Amending Act so as to not make any distinction between those cases that were instituted before the Amending Act was promulgated and the cases that were instituted after the Amending Act was promulgated.

13. During the course of proceedings, it was brought to the notice of this Court that on 04.02.2020, a decision had been taken on the Administrative side of this Court that the Amending Act would be applicable to only those cases which were instituted on or after 03.05.2018. Accordingly, on 25.03.2022, this Court issued notice to the High Court to produce the record so as to demonstrate the rationale of its Order dated 04.02.2020.

14. Dr. Amit George, learned Standing Counsel for the Delhi High Court, in order to substantiate that that the Amending Act is not applicable retrospectively, has made the following submissions:

- a) Dr. George submits that the Amending Act categorically states that it shall apply only to cases relating to commercial disputes that have been filed on or after the date of its commencement, i.e. 03.05.2018. He states that the Supreme Court has time and again reiterated that when the words of a statute are clear and unambiguous, then the Courts are bound to give such text its



ordinary meaning and must not impute its own interpretation that could be contrary to what the Parliament has sought to achieve.

- b) He further submits that the general rule of interpretation is that every statute is prospective in operation until and unless it has been made expressly retrospectively in application. He states that permitting retrospective application of the Amending Act would affect the substantive rights of the parties. For instance, it would restrict the right of appeal available to the parties outside the provisions of the 2015 Act. He further points out to this Court that a retrospective application would also entail various administrative and practical difficulties. For instance, as the Amending Act has brought in Section 12A of the 2015 Act, which stipulates that every matter must undergo mandatory pre-institution mediation, it would lead to all the pending cases of the lowerd specified value being re-heard.
- c) Dr. George argues that the Saving Clause provided in Section 19 of the Amending Act has to be read harmoniously with Section 15 of the 2015 Act, and that any other interpretation by the Court would frustrate the very object of the Amending Act and would reduce Section 19 to a nullity. He further states that juxtaposition of Section 19 of the Amending Act with Section 15 of the 2015 Act to establish retrospectivity would defeat the purpose of 2015 Act which was to ensure speedy resolution of disputes of commercial nature. He further submits that bringing small disputes of commercial nature instituted prior to 03.05.2018 into the fold of 2015 Act would undo the objective of the said Act and



would also impose a severe burden on the Commercial Courts system.

15. Mr. Vipin Nandwani, learned Counsel appearing for the Respondents, supplements the submissions made by Dr. Amit George appearing on behalf of the Delhi High Court, and contends that a bare reading of the Section 19 of the Amending Act would show that the term “*save as otherwise provided*” will apply only to the Amending Act and, therefore, cannot be extended to Section 15 of the parent 2015 Act to establish retrospectively.

16. Heard Mr. Praveen Suri, learned Counsel for the Petitioners, Dr. Amit George, learned Standing Counsel for the Delhi High Court, Mr. Vipin Nandwani, learned Counsel for the Respondent, and perused the material on record.

17. The question that arises before this Court is as to whether Section 19 of the Amending Act will apply retrospectively to all the pending suits and applications of a specified value of more than rupees three lakhs that were filed prior to 03.05.2018.

18. In the 188th Report of the Law Commission of India on “Proposals for Constitution of Hi-Tech Fast – Track Commercial Divisions in High Courts”, it has been stated that the purpose of instituting the Commercial Courts Act, 2015, was to expedite commercial cases of a high pecuniary value and to create confidence in the commercial circles within India and outside by sending a message that our Courts were fast, if not faster than Courts elsewhere. Accordingly, Commercial Courts Act, 2015 was passed whereby all cases dealing with “commercial disputes” as defined under Section 2(c) of the 2015 Act would be heard by Courts which were specially designated as Commercial Courts. In States where a High Court of ordinary original civil jurisdiction was located, such matters were to be heard by the



Commercial Division of the High Court, and appeals to the same were to lie before the Commercial Appellate Division of the High Court.

19. In 2018, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018, was promulgated whereby territories in which the High Courts had ordinary Original civil jurisdiction, Commercial Courts were to be established at the level of the District Courts as well, and any appeal from these Commercial Courts at the District Level would lie before the Commercial Appellate Division of the High Court. Further, this Amending Act reduced the specified value to Rupees three lakhs and, therefore, widened the pecuniary jurisdiction exercised by such District Courts (Commercial). The Amending Act also introduced Section 12A into the 2015 Act which contemplated a pre-institution mediation settlement for any commercial dispute that was to be brought before the Commercial Courts.

20. Section 19 of the Amending Act, the subject matter of contention in the instant case, reads as under:-

*“19. Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes **filed on or after** the date of commencement of this Act.”*

21. A basic principle of jurisprudence is that statutes must have a prospective effect on the ground that a retrospective application of the same threatens to disturb matters that have already been settled, and therefore, undermine and invade contractual and personal relationships existing under the law that has already been in operation. In order to ensure that statutes that are being newly promulgated do not disturb such previously settled matters, a strong presumption exists that the law is prospective in operation, unless explicitly made retrospective.



22. The Supreme Court has established a clear position of law when it comes to retrospective applicability of statutes. In Monnet Ispat and Energy Limited v. Union of India and Ors., (2012) 11 SCC 1, the Supreme Court had made the following observations on the cardinal principle of construction as per which every statute is *prima facie* prospective unless it is expressly or by necessary implication made to have retrospective operation:

“153. Having carefully considered Section 17-A, I have no hesitation in holding that the said provision is prospective. There is no indication in Section 17-A or in terms of the amending Act that by insertion of Section 17-A Parliament intended to alter the pre-existing state of affairs. Parliament does not seem to have intended by bringing in Section 17-A to undo the reservation of any mining area made by the State Government earlier thereto for exploitation in public sector. Parliament has no doubt plenary power of legislation within the field assigned to it to legislate prospectively as well as retrospectively. As early as in 1951 this Court in Keshavan Madhava Menon v. State of Bombay [AIR 1951 SC 128 : (1951) 52 Cri LJ 860] had stated about a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective operation. Unless there are words in the statute sufficient to show the intention of the legislature to affect existing rights, it is deemed to be prospective only. In Principles of Statutory Interpretation (7th Edn., 1999) by Justice G.P. Singh, the statement of Lord Blanesburg in Colonial Sugar Refining Co. v. Irving [1905 AC 369 : (1904-07) All ER Rep Ext 1620 (PC)] and the observations of Lopes, L.J. in Pulborough Parish School Board Election, In re, Bourke v. Nutt [(1894) 1 QB 725 : (1891-94) All ER Rep 831 (CA)] have been noted as follows: (QB p. 737)



“In the words of Lord Blanesburg, ‘provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment’. ‘Every statute, it has been said’, observed Lopes, L.J., ‘which takes away or impairs vested rights acquired under existing laws, or creates a new obligation or imposes a new duty, or attaches a new disability in respect of transactions already past, must be presumed to be intended not to have a retrospective effect’.”

154. Where an issue arises before the court whether a statute is prospective or retrospective, the court has to keep in mind presumption of prospectivity articulated in the legal maxim nova constitutio futuris formam imponere debet non praeteritis i.e. “a new law ought to regulate what is to follow, not the past”. The presumption of prospectivity operates unless shown to the contrary by express provision in the statute or is otherwise discernible by necessary implication.”

(emphasis supplied)

23. In Hitendra Vishnu Thakur v. State of Maharashtra, (1994) 4 SCC 602, the Supreme Court, while deliberating upon the 1993 Amendment to the Code of Criminal Procedure, 1973, had culled out certain principles with regard to the ambit and scope of the Amending Act and its retrospective operation. Relevant portion of the said judgment has been reproduced as under:

“26. The Designated Court has held that the amendment would operate retrospectively and would apply to the pending cases in which investigation was not complete on the date on which the Amendment Act came into force and the challan had not till then been filed in the court. From the law settled by this Court in various cases the illustrative though not exhaustive



principles which emerge with regard to the ambit and scope of an Amending Act and its retrospective operation may be culled out as follows:

- (i) A statute which affects substantive rights is presumed to be prospective in operation unless made retrospective, either expressly or by necessary intendment, whereas a statute which merely affects procedure, unless such a construction is textually impossible, is presumed to be retrospective in its application, should not be given an extended meaning and should be strictly confined to its clearly defined limits.*
- (ii) Law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature.*
- (iii) Every litigant has a vested right in substantive law but no such right exists in procedural law.*
- (iv) A procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished.*
- (v) A statute which not only changes the procedure but also creates new rights and liabilities shall be construed to be prospective in operation, unless otherwise provided, either expressly or by necessary implication.”*



24. It was, therefore, held that a Statute which affects substantive rights is presumed to be prospective in operation unless it is made retrospective either expressly or by necessary intendment, whereas a statute which merely affects procedure is presumed to be retrospective in nature unless such a construction is textually impossible. It was further held that every litigant has a vested right in substantive law, however, no such right exists in procedural law, and that a statute which not only changes procedure but also creates new rights and liabilities shall be construed to be prospective in operation unless otherwise provided.

25. Furthermore, the golden rule of interpretation is that words of the statute must *prima facie* be given their ordinary meaning and when the words of a statute are clear, plain and unambiguous, then the Courts are bound to give effect to their meaning, irrespective of the consequences. It is not sound principle of construction to brush aside words in a statute and thereby substitute the intention of the legislature. It is well settled that Judges must refrain from legislating, and that they have to remember that there is a line, though thin, which separates adjudication from legislation [Refer: Jharkhand v. Govind Singh, (2005) 10 SCC 437]. Therefore, a statute must be understood in their natural, ordinary or popular sense, and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary [Refer: Gurudev datta VKSSS Maryadit v. State of Maharashtra, (2001) 4 SCC 534].

26. In the instant case, the Petitioners have stated that as per the lowered specified value of rupees three lakhs by way of the Amending Act, they are entitled to the transfer of their suits to the District Court (Commercial) in wake of Section 15 of the parent Act which stipulates the transfer of *pending*



suits to the designated Commercial Courts. It is further stated by the Petitioners that this interpretation of Section 19 of the Amending Act would further the purpose for which the Commercial Courts Act was brought in. In the considered opinion of this Court, this argument of the learned Counsel for the Petitioners does not hold any weight.

27. It cannot be said that there is any lack of clarity or ambiguity in the phrasing of Section 19 of the Amending Act which categorically states that the provisions of the Amending Act will apply to cases relating to commercial disputes *filed on or after* the date of commencement of the Act, i.e. 03.05.2018. Furthermore, interpreting the Amending Act to be retrospective in nature will affect the substantive rights of the parties who have already filed their suits in ordinary Civil Courts before the Amending Act was enforced. Holding it otherwise will and also lead to administrative and practical difficulties which cannot be said to be the intention of the Legislature while promulgating the said Amending Act. Had the Legislature intended for the Amending Act to be retrospective in nature, there is nothing that could have prevented the Legislature from explicitly specifying the same.

28. It is also pertinent to note that the term “*save as otherwise provided*” that has been prefixed in Section 19 of the Amending Act is meant to be in the form of an exception. The purpose of the Saving Clause is to preserve from destruction certain rights, remedies and privileges already existing. This Clause saves all the rights that were previously there; it does not create any new rights. In light of this, the Petitioners cannot take advantage of the Saving Clause in Section 19 of the Amending Act to state that the Amending Act applies retrospectively to Section 15 of the 2015 Act and that the disputes pertaining to the lowered specified value of Rs.3 lakhs, which are



pending before the District Courts, will come under the purview of the Commercial Courts Act, 2015.

29. The reliance of the learned Counsel for the Petitioner on the Judgment dated 14.09.2021, passed by this Court in **C.R.P. 61/2021**, titled as Mr. Hari Singh v. MS Superhouse Ltd., wherein a direction had been given to the District Judges and District Courts to ensure that disputes which are of commercial nature are transferred to Commercial Courts so that orders could be passed in accordance with law, is also of no consequence as the direction passed in the said Judgement was general in nature and was meant to instruct District Courts to ensure that disputes of a commercial nature were automatically transferred to the designated Commercial Courts without requiring interference of the High Court.

30. In view of the above observations, this Court is of the opinion that the Amending Act shall not apply retrospectively and is, therefore, not inclined to transfer the civil suits pending before the Additional District Judge, Patiala House Courts, New Delhi, to the designated Commercial Court.

31. Accordingly, the petitions are dismissed, along with the pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

JULY 18, 2022

Rahul