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

% Judgment delivered on: 21.12.2022

+ CM(M) 1446/2022 & CM APP No. 55532/2022

XERICA WIDENING HORIZONS LLP Petitioner

versus

QR PROPERTIES PRIVATE LIMITED & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr.Abhishek Garg and Mr.Yash, Advs.

For the Respondents :Mr.Rahul Malhotra with Mr.Ariit Dwivedi,
Advs.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. Nos. 55533-34/2022 (seeking exemptions)

1. Exemptions are allowed, subject to all just exceptions.
2. The applications are disposed of.

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3. Learned counsel appearing for the petitioner submits that the petitioner moved an application under Order VII Rule 10 CPC, 1908 praying for return of the plaint to be filed in the Court of competent

jurisdiction which is the District Judge (commercial), North West, Rohini Courts, Delhi.

4. By way of the impugned order, the learned Trial Court had agreed with the submissions made by learned counsel for the petitioner, and directed that the plaint with the court fees after endorsement be returned by the plaintiff as per Rules.

5. By way of the impugned order, the learned Trial Court had further directed the parties to appear before the learned District Judge, Commercial Courts, North West, Rohini Courts, Delhi on 13.12.2022 at 2.00 p.m.

6. Learned counsel further submits that on 13.12.2022 when he approached the court of the District Judge, Commercial Courts, North West, Rohini Courts, Delhi, the suit was not listed. On enquiry, the petitioner was relegated back to the Court of Additional District Judge where the suit was originally pending.

7. On further enquiry, learned counsel was informed that the petitioner would have to apply for the certified copies and after obtaining the same, returned plaint would have to be filed before the Competent Court. However, the certified copies are not yet prepared despite having applied on 13.12.2022.

8. Learned counsel submits that the plaintiff is in urgent need of immediate interim orders and this delay is causing prejudice and the grievances of the plaintiff are increasing by the day.

9. After hearing the counsel for the petitioner there is no doubt that the petitioner is in a piquant situation, in that the suit as filed was returned for the reasons that have to be filed before the Commercial Courts and the original court was lacking the competent jurisdiction to decide the suit. However, the matter is not yet listed before the Commercial Courts for adjudication.

10. In view of the peculiar situation arising in the aforesaid petition coupled with the submissions made by learned counsel for the petitioner, it would suffice if a direction is given to the District Judge (Commercial) of the North West District, Rohini Courts to consider the application, if any, filed by the petitioner ventilating their grievances and take action in accordance with the rules & regulations as prescribed for the Commercial Courts.

11. In view of the above, no further orders are required, petition stands disposed of.

TUSHAR RAO GEDELA
(JUDGE)

DECEMBER 21, 2022
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