



2023:DHC:7498



\$~34

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 11.10.2023***+ **TR.P.(C.) 40/2023 & CM APPL. 12430/2023****RATTAN SINGH**

..... Petitioner

Through: Mr.Om Prakash, Mr.Durgesh
Gupta, Advs.

versus

KARAN SINGH AND ORS

..... Respondents

Through: Mr.Kamal Bansal, Adv. for R-3.
Mr.Ankush Bansal, Adv. for R-4
to 10.
Mr.Ajay Kumar, Adv. for R-12 &
13.
Ms.Charu Bhardwaj, Adv. for
R-14.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition seeks transfer of the Suit, being CS DJ/No.619403/2016, titled ***Rattan Singh v. Karan Singh & Ors.***, from the Court of the learned Additional District Judge-02, (Central-District), Tis Hazari Courts, Delhi to this Court.
2. The above suit was filed on 17.08.2016 by the petitioner before the learned District Court initially only against the respondent nos.1 to 11. Later, the respondent nos.12 to 15 were impleaded in the said suit. The respondent nos.12 to 15 filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (in short, 'CPC') *inter-alia* raising a

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 16.10.2023

16:18:43

**TR.P.(C.) 40/2023****Page 1 of 4**



plea that the suit has not been properly valued for the purpose of jurisdiction and Court Fee. The learned Additional District Judge, vide order dated 25.01.2023, *inter-alia* observed that the petitioner shall value the suit in accordance with the law, and directed the petitioner herein to file an amendment to the plaint. It was further directed that the petitioner shall take further appropriate steps for return of the plaint if the suit value is beyond the pecuniary jurisdiction of the said Court.

3. At this stage, the petitioner filed an application under Order VI Rule 17 of the CPC, seeking amendment of the plaint *inter-alia* seeking to amend the paragraph 17 of the plaint by stating that the value of the suit property is Rs.2,66,11,880/-. The petitioner also filed the present petition seeking transfer of the suit to this Court as the suit would now to be maintainable before this Court due to the increase in the Suit valuation for the purposes of jurisdiction.

4. This petition was first listed before this Court on 15.03.2023, when it was adjourned at the request of the learned counsel for the petitioner. It was again listed on 26.04.2023, however, as the concerned Bench was not available, the petition was adjourned to 24.05.2023.

5. In the meantime, by an order dated 11.05.2023, the learned Additional District Judge allowed the amendment application filed by the petitioner under Order VI Rule 17 of the CPC, and further held that after the amendment of the plaint, the value of the suit exceeds the pecuniary jurisdiction of the Court and, therefore, directed return of the plaint under Order VII Rule 10 of the CPC to the petitioner, to be presented to the Court having competent jurisdiction to try and decide the suit.

6. Thereafter, the present petition came to be listed before this Court





on 24.05.2023, when the notice of this petition was issued to the respondents.

7. The learned counsels for the respondents submit that as the plaint has already been ordered to be returned to the petitioner, the present petition has been rendered infructuous.

8. On the other hand, the learned counsel for the petitioner, placing reliance on the judgment of this Court in *Miss Pushpa Kapal v. Shiv Kumar*, 1988 SCC Online Del 73, submits that till the plaint is actually returned to the petitioner, the same is treated to be pending before the Court and does not denude this Court of its power under Section 24 of the CPC.

9. I have considered the submissions of the learned counsels for the parties.

10. It would be evident from the above narration of facts that the petitioner had to move an application under Order VI Rule 17 of the CPC seeking enhancement of the valuation of the suit for the purposes of the jurisdiction in compliance of the order dated 25.01.2023 of the learned Trial Court. As the petitioner apprehended that with the amendment being allowed, the learned Trial Court would lose the pecuniary jurisdiction to adjudicate the suit, the petitioner also filed the present petition before this Court. While the present petition was pending adjudication, the learned Trial Court proceeded ahead and allowed the amendment application and in view of the same being allowed, directed the return of the plaint under Order VII Rule 10 of the CPC.

11. As the present petition has been filed prior in point of time and had been pending adjudication, and in view of the judgment of this Court in





2023:DHC:7498



Pushpa Kapal (supra), in my view, this Court is not denuded of its power under Section 24 of the CPC to direct the transfer of the said suit instead of return of the plaint of the same.

12. Accordingly, Suit, being CS DJ No.619403/2016, titled ***Rattan Singh v. Karan Singh & Ors.***, is transferred from the Court of the learned Additional District Judge-02, (Central-District), Tis Hazari Courts, Delhi to this Court. It shall proceed from the stage it was at before the learned Trial Court.

13. The said suit shall be listed before the learned Joint Registrar (Judicial) on 28th November, 2023.

14. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

OCTOBER 11, 2023/Arya/ss

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 16.10.2023

16:18:43



TR.P.(C.) 40/2023