



\$~13

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

Date of decision: 24.11.2023

+ TR.P.(C.) 78/2022 & CM APPL. 60867/2023
SUNITA AGGARWAL Petitioner
Through: Mr.Ravinder Adlakha, Adv.

versus

MAHINDER SINGH & ANR Respondents
Through: Mr.Achal Gupta, Ms.Alizaah Rais,
Adv for R-1.
Mr.Harsh Vardhan Singh, Adv for
Mr.M.G. Vachar, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition seeks transfer of the Suit filed by the petitioner herein, being CS No.20285/2016, titled *Smt. Sunita Aggarwal v. Sh. Mahinder Singh & Anr.*, pending adjudication before the Court of the learned Additional District Judge-09, Central District, Tis Hazari Courts, New Delhi, to the Court having jurisdiction over the North District, Rohini Courts (wrongly mentioned in the petition as North West District).
2. It is stated that the above Suit has been filed *inter alia* praying for a decree of declaration and possession with respect to the property, that is, the entire first floor of property bearing no.2038, admeasuring 160 sq. yards, Outram Lines, Kingsway Camp, Delhi-110009 (hereinafter referred to as the 'suit property'). The said suit was first filed before this Court, however, due



to the increase in the pecuniary jurisdiction of this Court, it was transferred to the District Court at Tis Hazari Courts, Delhi. The petitioner claims that it is only now that the petitioner has realized that the jurisdiction over the suit property would lie with the Court in North District, Rohini Courts.

3. The learned counsel for the petitioner submits that in order to obviate any objection at any later stage, and in order to ensure that plaint is not rejected on any technical ground, the present petition has been filed.

4. On the other hand, the learned counsel for the respondent no.1 submits that the present petition is highly belated. He submits that the respondent no.1 had also filed a Suit before this Court, being CS(OS) 267/2014, ***titled Smt. Sunita Aggarwal and Anr. v. Shri. Mahinder Singh and Anr.*** After the pecuniary jurisdiction of this Court was enhanced, the same stood transferred to the appropriate Court of jurisdiction in the North District, Rohini, vide order dated 12.01.2016 passed by the learned Joint Registrar (Judicial). The petitioner, in spite of knowing of the same, let her suit got transferred to the Central District, and let the suit continue there, till now. He further submits that, in fact, in the said suit, a third party has filed an application under Order XXII Rule 10 read with Order I Rule 10 of the Code of Civil Procedure, 1908 (in short, 'CPC'), seeking substitution as plaintiff, based on the alleged Sale Deed dated 23.03.2016. It is only when the learned Trial Court expressed its doubts on the maintainability of the said application, the present petition has been filed. He further submits that now that the petitioner concedes that the proper jurisdiction to adjudicate the suit is with the Court at North District, Rohini Courts, the proper course would be to return the plaint under Order VII Rule 10 of the CPC.

5. I have considered the submissions made by the learned counsels for





the parties.

6. As noted hereinabove, the above suit, being CS No.20285/2016, pending before Central District, Tis Hazari Courts, was earlier instituted before this Court, but was transferred to the learned District Court only due to the change of the pecuniary jurisdiction of this Court. It is not contested by any of the parties that the proper jurisdiction to adjudicate on the said Suit would lie with the Court of competent jurisdiction in the North District, Rohini Courts. Therefore, the transfer of the said suit by this Court to the Court in the Central District, Delhi was improper.

7. It may be true that the petitioner should be more aware of her rights and should have pointed out this mistake at an earlier possible opportunity, however, the same cannot be a reason to let the Suit continue in the Court which otherwise lacks territorial jurisdiction to adjudicate the same.

8. As far as the subsequent transfer of the interest in the suit property is concerned, the application of the third party is still pending adjudication in the Suit. The same will have to be adjudicated on its own merits irrespective of the transfer of the Suit.

9. In fact, for the very reason that otherwise the plaint of the Suit, which has been pending adjudication since 2014, would stand returned under Order VII Rule 10 of the CPC, and the same would defeat the interest of justice, the Suit should be transferred to the Court of appropriate jurisdiction.

10. Accordingly, in the interest of justice, the present petition is allowed. The Suit, being CS No.20285/2016, titled **Smt. Sunita Aggarwal v. Sh. Mahinder Singh & Anr.**, pending adjudication before the Court of the learned Additional District Judge-09, Central, Tis Hazari Courts Delhi, is hereby transferred to the learned Principal District & Sessions Judge, North





District, Rohini, who shall assign the same to the Court of competent jurisdiction. The said Suit shall commence from the stage where it was before its transfer.

11. The parties shall appear before the Transferee Court on 19.12.2023.
12. For the delay that has been caused, the petitioner must bear some costs.
13. Accordingly, the present petition is allowed subject to the payment of costs of Rs.7,000/- by the petitioner to the respondent no.1.
14. The petition and the pending application are disposed of in the above terms.

NAVIN CHAWLA, J

NOVEMBER 24, 2023/Arya

Click here to check corrigendum, if any

