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

Date of decision: 12.07.2023

+ TR.P.(C.) 120/2022
MANISH RASWANT

..... Petitioner

Through: Mr.Ankur Chhibber, Mr.Abhishek
Rantji, Advs.

versus

JAIDEEP RASWANT & ORS.

..... Respondents

Through: Mr.S.C.Sagar, Mr.Naeem Ahmed,
Advs. for R-1-2.
Mr.Rishab Raj Jain, Adv. for
R-4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. The present petition has been filed seeking the transfer of Suit bearing no. CS DJ No. 438/2020 titled ***Manish Raswant v. Jaideep Raswat & Ors.*** (hereinafter referred to as the 'subject Suit') from the Court of the learned Additional District Judge - 02, South District, Saket District Courts, New Delhi (hereinafter referred to as the 'Trial Court') to this Court for its disposal in accordance with law.
2. The subject Suit has been filed by the petitioner herein seeking *inter alia* a decree of partition, mandatory injunction, rendition of accounts, and mesne profits. By an order dated 02.11.2022, the learned Trial Court observed as under:

*“ At this stage, it is noticed that the plaintiff
has prayed, inter-alia for partition of 2 immovable*

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properties and certain movable properties. However, the plaintiff has valued the suit at Rs. 90 lakhs for the purpose of relief of partition. For the relief of rendition of account, the suit is valued at Rs. 500 while for the relief of recovery of mean profits and occupation charges, suit is valued at Rs. 18,81,769/-. I am of the prima-facie opinion that the suit is not valued properly for the purpose of jurisdiction.

Ld. Counsel for the plaintiff seeks time to satisfy the court that the suit is properly valued. Time is granted for submission.”

3. The petitioner now seeks to accede to the observation of the learned Trial Court, and prays that the subject Suit be transferred to this Court. The petitioner now avers that the valuation of the subject Suit should be at Rs.2,70,00,000/-.
4. The learned counsel for the respondent nos.1 and 2 opposes the present petition by stating that the subject Suit has been defended by the said respondents taking preliminary objections *inter alia* of the lack of the territorial jurisdiction and pecuniary jurisdiction of the learned Trial Court to entertain the subject Suit. He submits that plea of the subject Suit being barred by limitation and proper court fee not being affixed has also been taken by the said respondents/defendants. He submits that, therefore, the subject Suit should not be transferred but, instead, be dismissed/returned under Order VII Rule 10 of the Code of Civil Procedure, 1908.
5. The learned counsel for the respondent no.4, however, does not oppose the present petition.
6. I have considered the submissions made by the learned counsels for the parties.
7. As it is evident from the above, it is the own observation of the



learned Trial Court that the subject Suit has not been properly valued for the purpose of pecuniary jurisdiction. The petitioner seeks to accede to this objection and is now willing to value the subject Suit for pecuniary jurisdiction at Rs.2,70,00,000/-, with which the pecuniary jurisdiction to try the subject Suit will be of this Court. Though, the respondents have objection to even this valuation and on the proper court fee not being affixed to the plaint, such objections can be taken by the respondents on such transfer of the subject Suit as well.

8. The other objections of the respondents, including on the territorial jurisdiction or on the subject Suit being barred by limitation or any other objection of the respondents, can also be considered by this Court on such transfer of the subject Suit.

9. Therefore, leaving all objections of the respondents open to be adjudicated in the subject Suit and the application(s) filed by the respondent(s), the subject Suit bearing no. CS DJ No.438/2020 titled ***Manish Raswant v. Jaideep Raswat & Ors.*** is transferred to this Court.

10. The plaintiff/petitioner herein shall file an amended plaint reflecting the change of the valuation of the subject Suit for the purpose of pecuniary jurisdiction.

11. It is reiterated that this Court has not, in any manner, accepted the valuation placed by the petitioner on the subject Suit and all objections of the respondents in this regard and on other grounds will remain open.

12. The petition is allowed in the above terms.

NAVIN CHAWLA, J

JULY 12, 2023
RN/AS