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

Date of decision: 11.12.2023

\+ TR.P.(C.) 191/2023 & CM APPL. 63346/2023

GOVIND VASHISHT ..... Petitioner
Through: Mr.Keshav V. Hedge, Adv.

versus

TEJPAL & ORS. ..... Respondents
Through: Mr.Yashvir Sethi, Mr.Amit Kumar, Mr.Varun Maheshwari, Ms.Radhika Arora, Ms.Megha Soni, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed seeking transfer of the Eviction Petition, being RC ARC - 6184/2016, titled as ***Govind Vashisth v. Jagan Devi & Ors.,*** from the Court of the learned ACJ/CCJ/ARC, (South-District), Saket Courts, New Delhi (hereinafter referred to as the 'Rent Controller') to the Court of the learned Senior Civil Judge-cum-RC-(South-East District), Saket Courts, New Delhi.

2. By the abovementioned Eviction Petition, the petitioner, who claims himself to be the lessor of the property bearing no.114/115, Hari Nagar, Ashram, New Delhi (hereinafter referred to as the 'Tenanted Premises') seeks eviction of the respondents from the said

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tenanted premises. The said petition was filed in the year 2007, when the territorial jurisdiction to try the same lay with the Courts in the South-District. Thereafter, pursuant to the Notification dated 19.02.2013, there was a bifurcation of the jurisdiction of the courts, and the property in question fell within the jurisdiction of Courts in South-East District. However, oblivious to this fact, the petitioner continued to prosecute the Eviction Petition before the Court at South District. It is only later and now that the respondent pointed out the above lack of territorial jurisdiction of the said Court.

3. On 05.12.2023, the learned Rent Controller observed that as the tenanted premises is situated within the jurisdiction of the South-East District, the said Court may not have the territorial jurisdiction to try the said Eviction Petition. Liberty was granted to the petitioner to avail of proper remedies.

4. The petitioner has thereafter, filed the present petition seeking transfer of the Eviction Petition.

5. The learned counsel for the respondents, who appears on advance notice, submits that the Court in the South-District lacked territorial jurisdiction to try the Eviction Petition filed by the petitioner since the year 2013. He submits that all proceedings taken by that Court, since 2013, would be null and void. In support he placed reliance on the judgment of the Supreme Court in ***ONGC Ltd. v. Modern Construction & Co.,*** (2014) 1 SCC 648.

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

7. Section 24 of the Code of Civil Procedure, 1908 (in short,

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'CPC'), in fact, seeks to address the situation in which the petitioner has been placed, wherein due to the inadvertence, the trial in the eviction proceeding has continued in a Court which lacks territorial jurisdiction. Sub-section 5 of Section 24 of the CPC states that a suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it. Sub-section 2 of Section 24 of CPC empowers the Court to direct that the suit/proceeding may continue from the stage it was at, prior to its transfer. This is indeed to meet the ends of the justice.

8. In my view, the Eviction Petition filed by the petitioner deserves to be transferred with a direction that it shall continue from the stage that it is at present before the Court in the South District.

9. Accordingly, the Eviction Petition, being RCARC-6184/2016, titled as ***Govind Vashisth v. Jagan Devi & Ors.,*** is transferred from the Court of learned ACJ/CCJ/ARC (South-District), Saket Courts, New Delhi to the Court of the learned Senior Civil Judge-cum-RC (South-East), Saket Courts, New Delhi. It shall commence before the Transferee Court from the stage that it is at present.

10. The parties shall appear before the learned Transferee Court on 12.01.2024.

11. The learned counsel for the respondents submits that by an order dated 02.12.2023, the learned Rent Controller, South District has been pleased to dismiss the application filed by the respondents under Order VII Rule 11 of the CPC. He submits that by the transfer of the Eviction Petition, his remedy should not get prejudiced.

12. Needless to state that on the transfer of the Eviction Petition,

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the respondents would have all the remedies open to them in law against the order dated 02.12.2023 and this order in no manner prejudices such rights.

13. The petition and the pending applications are disposed of in the above terms.

NAVIN CHAWLA, J

DECEMBER 11, 2023/Arya

Click here to check corrigendum, if any

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