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

+ **TR.P.(C.) 128/2025**

ANEETA LEEKHA

.....Petitioner

Through: Mr. Raman Gandhi, Advocate.

versus

KOTAK MAHINDRA BANK LTD.

.....Respondent

Through: Ms. Gurmeet Bindra, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **23.07.2025**

CM APPL. 43635/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

TR.P.(C.) 128/2025

By way of the present petition filed under section 24 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the petitioner seeks transfer of suit bearing C.S. No.816/2019 which was pending before the court of learned District Judge-02 & Wakf Tribunal, Patiala House Courts, New Delhi ('District Judge') to the court of learned District Judge, Commercial, Patiala House Courts.

2. The matters arises from order dated 28.02.2025 passed by the learned District Judge, whereby the learned District Judge has exercised his *suo motu* powers and returned the plaint under the provisions of Order



VII Rule 10 CPC. The learned District Judge has also directed the plaintiff/petitioner to present the plaint before a competent commercial court observing that the dispute fell within the meaning of a “commercial dispute” under section 2 (1)(c) of the Commercial Courts Act, 2015.

3. The aforesaid order was challenged by the petitioner by way of an appeal bearing FAO No. 75/2025. *Vide* judgment dated 27.03.2025, the aforementioned appeal has been dismissed; and *vide* order dated 11.07.2025 made in the same proceedings, the petitioner has been granted liberty to seek transfer of the C.S. No.816/2019 to a commercial court. The present petition has been filed in this backdrop.
4. Mr. Raman Gandhi, learned counsel appearing for the petitioner submits, that the proceedings before the learned District Judge were at the stage of final arguments, having begun in 2019, and at this late stage the plaint was ordered to be returned. Learned counsel argues, that the parties having led evidence and having gone through the entire trial, return of the plaint at this stage would entail a *de-novo* trial, with avoidable waste of time and money.
5. Issue notice.
6. Ms. Gurmeent Bindra, learned counsel is present on behalf of the respondent/Bank on advance copy; accepts notice; and submits, that since the Bank is also interested in expeditious conclusion of the proceedings, they are willing to make a statement that if the petitioner accepts order dated 28.02.2025 passed by the learned District Court returning the plaint, and presents the plaint before the concerned



commercial court, the respondent would not seek *de novo* trial in the matter; and that they would adopt their written statements as well as the entire evidence of the parties recorded before the learned District Judge to be taken as the record before the transferee commercial court.

7. In view of the statement made by Ms. Bindra, Mr. Gandhi submits that the present petition may be disposed-of in the terms narrated above.
8. Accordingly, the present petition is disposed-of granting to the petitioner liberty to present the plaint in CS 816/2019 to the concerned commercial court, which court shall, based on the statement made by learned counsel for the respondent as recorded above, proceed with the matter based on the existing record of CS 816/2019, from the stage at which the matter is, without a *de-novo* trial.
9. It is made clear that the present order is passed on consent of the parties, without delving into the nuances of the distinction between return of plaint under Order VII Rule 10 CPC and the power of the High Court to transfer proceedings under section 24 CPC.
10. The petition is disposed-of in the above terms.
11. Pending applications, if any, stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 23, 2025

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