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

+ **FAO(OS) 104/2025, CM APPL. 58710/2025, CM APPL. 58711/2025, CM APPL. 58712/2025 & CM APPL. 58713/2025**

KAMAL KUMAR NEWARAppellant

Through: **Mr. Mukesh Kr. Gupta and Mr. Abhishek Singh, Advocates.**

versus

NAND KUMAR NEWARRespondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

% **16.09.2025**

1. The present Appeal, preferred under Order XLIII of the Code of Civil Procedure, 1908 read with Section 10 of the Delhi High Court Act, 1966, assails the correctness of order dated 01.08.2025 [hereinafter referred to as "Impugned Order"] passed by the learned Single Judge in CS (OS) No. 362/2009 whereby the said suit was remitted to the Court of the learned Principal District & Sessions Judge, Saket Courts, New Delhi, for disposal.

2. The facts, in brief, are that the Appellant and Respondent are brothers. The Respondent instituted CS (OS) 362/2009 seeking recovery of possession & damages against the Appellant. At the time of the Impugned Order, the suit was pending before the District Court. Evidence for both parties had been concluded, and the matter had



reached the stage of final arguments, being ripe for adjudication.

3. The Appellant, on the other hand, instituted CS (OS) 150/2010 seeking partition of the family property, which continues to remain pending on the Original Side of this Court. That suit is still at a preliminary stage, and even issues have not yet been framed.

4. Initially, *vide* order dated 17.02.2016, the two suits were consolidated. The order of consolidation was recalled by this Court on 25.07.2016 in T.R.P.(C) 153/2016. Subsequently, on 26.02.2018, consolidation was again directed, and CS (OS) 150/2010 was transferred to the Original Side of this Court. However, *vide* order dated 12.10.2018 in FAO (OS) 119/2018, the plea for consolidation was withdrawn. The two suits thus stood de-linked and were to proceed separately.

5. Against this backdrop, the learned Single Judge noted that:

- i. CS(OS) 362/2009 is valued at less than Rs.2 crores and therefore falls squarely within the pecuniary jurisdiction of the District Court;
- ii. Evidence in the CS(OS) 362/2009 had already concluded, and the matter was ripe for final disposal, whereas the CS (OS) 150/2010 remains at a nascent stage; and
- iii. Consolidation was no longer in force.

6. Accordingly, by the Impugned Order dated 01.08.2025, CS (OS) 362/2009 was remitted to the Court of the Principal District & Sessions Judge, Saket, for assignment to a competent Court.

7. Learned counsel for the Appellant contended that the Impugned Order, in effect, amounted to a review or recall of the order dated 26.02.2018, which directed consolidation.

8. This Court is unable to accept this submission. The order dated 26.02.2018 was only an interlocutory arrangement during the pendency



of the proceedings. Interlocutory orders are always subject to variation, change, or modification in the light of subsequent developments. Once the Appellant chose to withdraw his applications for consolidation on 12.10.2018, with liberty to move before the “learned Court below” for consolidation of suits for analogous hearing, and which order was subsequent to the order dated 26.02.2018 and consequent to which no such formal application for consolidation came to be filed, despite the express liberty granted by this Court, the foundation for retaining CS (OS) 362/2009 on the Original Side ceased to exist.

9. The learned Single Judge was justified in holding that no impediment existed in the suit being tried by the Court of competent pecuniary jurisdiction, i.e., the District Court at Saket, particularly since evidence had concluded and the matter was ripe for judgment.

10. No prejudice has been demonstrated by the Appellant. On the contrary, remitting the matter ensures an expeditious disposal of a suit that has remained pending since 2009.

11. For the foregoing reasons, we find no infirmity in the Impugned Order dated 01.08.2025.

12. The present Appeal, along with pending applications, is accordingly dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 16, 2025/ssc/pal