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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(C.) 1/2025 & CM APPL. 1112/2025 (Stay)**

NITIN TOKAS

.....Petitioner

Through: **Mr. Gautam Gupta and Mr. Uzair Elahi, Advocates.**

versus

JOGINDER SINGH TOKAS & ORS.

.....Respondents

Through: **Mr. Rajiv K. Garg, Mr. Ashish Garg and Mr. Lalit Nagar, Advocates.**

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
17.03.2026

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 24 read with Section 151 of the CPC, seeks the following prayers: -

“a) direct the transfer of the suit for partition etc. Bearing CS DJ no. 137 of 2018 titled as Nitin Tokas Vs Mr. Joginder Singh Tokas & others the court of Sh. Shirish District - House New Delhi before this Hon 'ble Court for want of Jurisdiction and assign the same to the appropriate of this Hon'ble Court to try the same;

b) pass such other or further orders as may deem fit and proper”

3. By way of the present petition, the petitioner is seeking transfer of suit, CS DJ No. 137 of 2018, instituted by him against the respondents seeking



declaration, partition, permanent injunction, recovery of *mesne profits* and damages. The said suit was instituted before the Court of learned District Court, Patiala House Courts, New Delhi, on 15.02.2018. In the said suit, the plaintiff/petitioner had jointly valued all the suit properties to the tune of Rs.1,00,00,000/-. Respondent Nos.1, 2 to 4/defendants had taken objection to the said valuation by filing an application under Order VII Rule 11 of the CPC. The said application was decided by learned District & Sessions Judge *vide* order dated 03.07.2019, by directing the petitioner/plaintiff to re-value the suit on the basis of market value of the properties and file appropriate Court fees. The said order was challenged by the petitioner by way of **CM(M) 1213/2019**, which was disposed of by the learned Coordinate Bench of this Court *vide* order dated 24.07.2024 by observing that, since according to the petitioner, he had calculated the valuation as per the market value only, and at the preliminary stage when the Court is seized of any such application moved under Order VII Rule 11 of the CPC, only the basic averments in the plaint are required to be gone into, and in view of the same, the direction regarding de-valuation of the suit property was set aside and learned Trial Court was directed to proceed with the matter in accordance with law. Thereafter, *vide* order dated 25.09.2024, the learned Trial Court framed a preliminary issue, *i.e.*, “whether the market value of the nine immovable properties stated in the plaint is not Rs.1,00,00,000? OPD”.

4. It is pertinent to note that the present petition was filed on 16.10.2024, seeking the aforesaid prayers. The petitioner moved an application under Order VI Rule 17 of the CPC, seeking amendment of the plaint filed on his behalf, alongwith the proposed amended plaint, on 17.10.2024 before learned District Judge. During the pendency of the present petition, learned Trial



Court had allowed the application under Order VI Rule 17 of the CPC *vide* order dated 22.03.2026, and had thereby amended paragraph nos.25 and 26 of the plaint and had taken on record the amended plaint filed by the petitioner. It was further observed that since the valuation of the suit property was increased to Rs.7,81,00,000/-, the said Court lacked pecuniary jurisdiction to try the said suit, and accordingly, the plaint was returned under Order VII Rule 10 of the CPC and *Ahlamad* was directed to take appropriate steps. It is further pointed out that pleadings in the subject suit are complete.

5. Learned counsel for the petitioner has submitted that the present transfer petition has been filed seeking a transfer of aforesaid suit instituted on latter's behalf, which is pending in the Court of learned District Judge, New Delhi District, Patiala House Courts, to the Court of competent jurisdiction.

6. Reliance has been placed on the judgment of the learned Coordinate Bench of this Court in **Ratan Singh v. Karan Singh & Ors., 2023 SCC Online Del 6532**, to contend that in similar circumstances, the learned Coordinate Bench had observed that since the transfer petition was filed prior to the application seeking amendment under Order VI Rule 17 of the CPC, and thereafter, the plaint was returned on account of amendment as the value of the suit exceeded pecuniary jurisdiction of this Court, the same did not denude this Court of its power under Section 24 of the CPC, to direct the transfer of the suit, instead of return of the plaint.

7. Learned counsel for the respondents has submitted that the petitioner has concealed several facts and has miserably failed to satisfy the requirements with respect to territorial as well as pecuniary jurisdiction. It is further submitted that the petitioner was well aware of the valuation of the



suit properties and had deliberately not filed the plaint before the Court of competent jurisdiction at the first instance. It is further submitted that as the plaint had already been directed to be returned to the petitioner, the present petition has become infructuous. It is further the case of the respondents that the aforesaid judgment in **Ratan Singh (supra)** is not applicable to the present case as the subject suit in the said case was at initial stage, and in the present case, the pleadings have been completed.

8. Heard learned counsel for the parties and perused the records.
9. Learned Coordinate of this Court in **Ratan Singh (supra)**, in similar circumstances, had observed and held as under: -

“7. The learned counsels for the respondents submit that as the plaint has already been ordered to be returned to the petitioner, the present petition has been rendered infructuous.

8. On the other hand, the learned counsel for the petitioner, placing reliance on the judgment of this Court in **Miss Pushpa Kapal v. Shiv Kumar, 1988 SCC OnLine Del 73**, submits that till the plaint is actually returned to the petitioner, the same is treated to be pending before the Court and does not denude this Court of its power under Section 24 of the CPC.

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

10. It would be evident from the above narration of facts that the petitioner had to move an application under Order VI Rule 17 of the CPC seeking enhancement of the valuation of the suit for the purposes of the jurisdiction in compliance of the order dated 25.01.2023 of the learned Trial Court. As the petitioner apprehended that with the amendment being allowed, the learned Trial Court would lose the pecuniary jurisdiction to adjudicate the suit, the petitioner also filed the present petition before this Court. While the present petition was pending adjudication, the learned Trial Court proceeded ahead and allowed the amendment application and in view of the same being



allowed, directed the return of the plaint under Order VII Rule 10 of the CPC.

11. As the present petition has been filed prior in point of time and had been pending adjudication, and in view of the judgment of this Court in ***Pushpa Kapal (supra)***, in my view, this Court is not denuded of its power under Section 24 of the CPC to direct the transfer of the said suit instead of return of the plaint of the same.

12. Accordingly, Suit, being CS DJ No. 619403/2016, titled Rattan Singh v. Karan Singh, is transferred from the Court of the learned Additional District Judge-02, (Central-District), Tis Hazari Courts, Delhi to this Court. It shall proceed from the stage it was at before the learned Trial Court.”

10. It is pertinent to note that learned District Judge had allowed the application under Order VI Rule 17 of the CPC filed on behalf of the petitioner seeking amendment of the plaint by observing as under:-

“11. It is settled proposition of law that plaintiff being master of the suit holds prerogatives to value the suit for the purpose of jurisdiction and relief claimed and the court may intervene only in case where the same appears to unreasonable or evasive.

12. It is further pertinent to state in here that the present suit is at initial stage and issues are yet to be framed in the present matter. Further, by way of present amendment, plaintiff is merely seeking the change of valuation of the suit, which does not affect the nature of the suit or cause prejudice to the defendant herein.

13. In view of the same, the present amendment so sought by the plaintiff in para 25 or 26 of the plaint stands allowed. Amended plaint be taken on record.

14. Further since the valuation of suit is increased to Rs. 7,81,00,000/- this court lacks pecuniary jurisdiction to try the present suit.



15. In view of the same, plaint stands returned under Order VII Rule 10 CPC. Ahlmad is directed to take appropriate steps in this regard.”

11. Perusal of the record reflects that the present transfer petition was filed on 16.10.2024 and the application under Order VI Rule 17 of the CPC seeking amendment of plaint was filed before the learned District Judge/Trial Court on 17.10.2024.

12. Thus, as the present petition was filed prior in point of time and was pending adjudication, therefore, in view of the aforesaid judgment of learned Coordinate Bench in **Ratan Singh (supra)**, this Court, while in exercise of power under Section 24 of the CPC, has power to direct the transfer of the said suit, instead of return of the plaint. It is pertinent to note that valuation of suit has now increased to Rs.7,81,00,000/-, and therefore, the same falls within the pecuniary jurisdiction of this Court, in exercise of Ordinary Original Civil Jurisdiction. It is further noted that in the aforesaid observation in **Ratan Singh (supra)**, the stage of the subject suit therein had not been indicated in the judgment.

13. Accordingly, in these circumstances, the suit, CS DJ No. 137 of 2018, filed on behalf of the petitioner/plaintiff is transferred from the Court of learned District Judge-05, New Delhi District, Patiala House Courts, to this Court. It shall proceed from the stage it was at before the learned Trial Court. Let the records of the said suit be transferred to the Registry of this Court within a period of 30 days and the same be numbered and listed accordingly.

14. The said suit shall be listed before the learned Joint Registrar (Judicial) on 20.04.2026.

15. The present petition is disposed of in the above terms.



16. Copy of the order be sent to learned District Judge-05, New Delhi District, Patiala House Courts, for necessary information and compliance.
17. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

MARCH 17, 2026/nk/ns