

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9231 of 2014

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1. Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 2. Mr. Rajiv Bajaj, Son of Rahul Bajaj Managing Director, Bajaj Auto Ltd., Having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 3. Mr. R. P. Jacob Son of Earnesh Pal Jacob Dy. General Manager, (Network Development), Bajaj Auto Ltd., having its Registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 4. Mr. K. Srinivas Son of K.V.R. Krishnarao President, Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 5. Mr. Prasad Vaze Son of Madhav Y. Vaze G.M. Bajaj Auto Ltd, Central Region, having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 6. Mr. Sagar J. Talewar Son of Jaikumar Senior Manager (Mc), Bihar-Jharkhand Zone, Bajaj Auto Ltd., having its registered office at - Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 7. Mr. Shubhadeep Chakraborty Son of G.D. Chakorborty Area Sales Manager, Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).

.... Petitioner/s

Versus

Mr. Rakesh Kumar Son of Late Chandraprakash Singh Proprietor Chandra Prakash Automobiles, At Deonah, P.O. - Tilrath, P.S. - Barauni Refinery and District - Begusarai.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.20630 of 2014

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1. Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
 2. Mr. Rajiv Bajaj, Son of Rahul Bajaj Managing Director, Bajaj Auto Ltd., Having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035

(Maharashtra).

3. Mr. R. P. Jacob Son of Earnesh Pal Jacob Dy. General Manager, (Network Development), Bajaj Auto Ltd., having its Registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
4. Mr. K. Srinivas Son of K.V.R. Krishnarao President, Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
5. Mr. Prasad Vaze Son of Madhav Y. Vaze G.M. Bajaj Auto Ltd, Central Region, having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
6. Mr. Sagar J. Talewar Son of Jaikumar Senior Manager (Mc), Bihar-Jharkhand Zone, Bajaj Auto Ltd., having its registered office at - Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra).
7. Mr. Shubhadeep Chakraborty Son of G.D. Chakorborty Area Sales Manager, Bajaj Auto Ltd., having its registered office at Akurdi, P.S. - Nigdi, Pune - 411035 (Maharashtra) Petitioner/s

Versus

Rakesh Kumar Son of Late Chandraprakash Singh Proprietor Chandra Prakash Automobiles, At Deonah, P.O. - Tilrath, P.S. - Barauni Refinery and District – Begusarai.

.... Respondent/s

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Appearance :

(In CWJC No.9231 of 2014)

For the Petitioner/s : Mr.Amrendra Sharan, Sr.Adv.

Mr.N.K.Agrawal, Sr.Adv.

Mr. Sanjeet Kumar, Adv.

Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Jitendra Kishore Verma, Adv.

Mr.Sidharth, Prasad Adv.

(In CWJC No.20630 of 2014)

For the Petitioner/s : Mr. Amrendra Sharan, Sr.Adv.

Mr.N.K.Agrawal, Sr.Adv.

Mr. Sanjeet Kumar, Adv.

Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Mr. Jitendra Kishore Verma, Adv.

Mr.Sidharth, Prasad Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

12 11-08-2015

Heard the learned counsel for the parties.

Calling in question the legal acceptability of the order dated 14.03.2014 passed in T.S. No. 464 of 2013 and also the order dated 14.03.2014 passed in Misc. Case No. 27 of 2013 rejecting the objection of the petitioner to the maintainability of the suit before the court at Begusarai on the basis of exclusion clause in the dealership agreement, the two respective applications i.e. C.W.J.C. No. 9231 of 2014 and C.W.J.C. No. 20630 of 2014 have been filed under Article 226 and 227 of the Constitution of India.

In view of the joint submission and the prayer by the learned counsel for both the parties, the two writ applications have been heard together and are being disposed of by this order.

In order to appreciate the rival submissions on behalf of the parties, it would be profitable here to briefly notice the facts as adumbrated in the two writ petitions as well as the counter affidavits. The writ petitioner no. 1 is a company manufacturing two and three wheeler automobile vehicles and the remaining writ petitioners are the officials including the managing director of the said company. The writ petitioners admittedly appointed the sole



respondent as their dealer at Begusarai for the entire range of Bajaj Auto two wheelers and issued a letter of appointment in that regard containing the terms and conditions. From the perusal of the first letter of appointment dated 12th April 2002 (Annexre-7 series), it transpires that the sole respondent was appointed as dealer by the writ petitioner company for the period from 12.04.2002 to 31.03.2003. It further also is not in dispute that the writ petitioner-company retained the dealership of the sole respondent upto 31.03.2013 by issuing letters of appointment for various specified periods. The dealership agreement thus started from 12.04.2002 and ended on 31.03.2013.

The plaintiff-sole respondent has filed the T.S. No. 464 of 2013 seeking relief for grant of prohibitory decree of permanent injunction against the defendant-writ petitioners directing them to withdraw email letter dated 24.07.2013 for discontinuation of the dealership of the plaintiff. The further relief for grant of temporary injunction has also been made for stay of the process of appointment of a new dealer at Begusarai during the pendency of the suit and to direct the defendants to supply two wheelers and spares as per demand of the plaintiff as agreed by the company as per earlier terms and conditions. In the plaint (Annexure-2), the plaintiff after stating the facts regarding his

appointment as dealer of the defendant-company and his satisfactory performance as such has come out with the case that the defendant no. 4 on 19.03.2013 assured the plaintiff to provide BFL (Bajaj finance limited) facilities from 01.04.2013 at plaintiff's dealership and further assured for making regular supply of two wheelers and spares as per requirement of the plaintiff. It is further case of the plaintiff that the plaintiff was invited at the dealers' meet held on 16.05.2013 at Patna along with other dealers where a new lay out CAD design for showroom as per new corporate norms was given by the defendants to the plaintiff who thereafter started renovation of the showroom at Begusarai by investing heavy amount for the benefit of the company. The plaintiff's further case is that the defendant nos. 5, 6 and 7 became hostile against the plaintiff and in concert and in collusion with the other officers of the company created various kinds of problem against the plaintiff and against the interest of the company for the wrongful gain and unnecessary demand. The plaintiff's further case is that through email letter dated 24.07.2013, the defendant no. 3 made false and baseless allegations regarding loss of the company in its business share in market due to poor performance of Bajaj two wheelers operations at Begusarai and gave threat that the company was contemplating



to appoint a new dealer at Begusarai. The plaintiff sent reply to the defendant no. 3 on 24.07.2013 requesting him to withdraw the letter threatening to appoint a new dealer at Begusarai but the defendant no. 3 in his email reply letter on 27.07.2013 made incorrect and arbitrary ex parte allegation of poor performance as reason for the action of discontinuation of dealership of the plaintiff and thereafter on 02.08.2013 the defendants wrongly and dishonestly made advertisement in daily newspaper inviting applications for new dealership in Begusarai. The reliefs as aforementioned have been sought for by the plaintiff on the basis of these main assertions.

The defendants have filed a joint written statement (Annexure-5) wherein they have raised the objection to the territorial jurisdiction of the court to try and entertain the suit in view of the exclusion clause contained in the terms and conditions of the dealership appointment letter in accordance of which, it is the court in Pune (Maharashtra) which has jurisdiction to try and entertain the suit. The defendants have further made mention of various clauses of the appointment letter to challenge the legality and propriety of the assertions made by the plaintiff. It is however specific case of the defendants that due to the poor performance of the plaintiff, the renewal of the plaintiff's dealership from



01.04.2013 has been stopped. The defendants have also accepted to have sent email to the plaintiff in the month of July 2013 and further to have released the advertisement on 1st August 2013 for appointment of a new dealer. It is also the case of the defendants that the plaintiff has not applied for renewal of his appointment as dealer and has thus acquiesced to the termination of the dealership from 31st March 2013 as valid. It is also the case of the defendants that the claim of investment of huge amount in the dealership by the plaintiff has no significance as far as the poor performance is concerned. The defendants on the basis of these main assertions have prayed for dismissal of the suit.

It would be relevant to mention here that by order 19.08.2013 the learned court below issued show cause notice to the defendants in view of the prayer made by the plaintiff for grant of temporary injunction during the pendency of the suit and has directed both the parties to maintain status quo with further direction to the defendants not to discontinue the dealership of Bajaj two wheelers at Begusarai of the plaintiff and to supply the two wheelers and their spares regularly till the final hearing of the injunction petition. It would further be pertinent to notice here that subsequently the plaintiff filed petition alleging disobedience of the order dated 19.08.2013 as above by the defendants and Misc.



Case No. 27 of 2013 under Order 39 Rule 2 (A) C.P.C. was initiated on the said petition. After filing of their written statement on 20.09.2013, the defendants further filed a petition under Order 39 Rule 4 C.P.C. praying to vacate the ex parte status quo order dated 19.08.2013 and thereafter on 03.03.2014 the defendants filed the petition in the suit and also in the misc. case raising the question of territorial jurisdiction of the court to entertain the suit in view of the clause in the dealership agreement conferring exclusive jurisdiction upon the courts at Pune (Maharashtra) with regard to all disputes between the parties. The learned court below by separate orders dated 14.03.2014 passed in the suit and the miscellaneous case has rejected the said petition dated 03.03.2014 refusing to sustain the objection to the jurisdiction as raised by the defendants.

While criticizing the impugned order, the learned senior counsel for the petitioners has submitted that the learned court below has committed gross error of jurisdiction and acted with material irregularity in turning down the objection on behalf of the defendants to the territorial jurisdiction of the court to try and entertain the suit. It has been urged that undisputedly there is clause in the appointment letter of the dealership of the plaintiff stipulating that any dispute arising out of or incidental to the



appointment letter and terms and conditions as mentioned therein would be subject to the jurisdiction of the court of city of Pune according to the law for the time being in force and as such the jurisdiction of the court at Begusarai stands ousted by the agreement of the parties. A number of decisions of the Apex Court has been referred to and relied upon in support of the submission that the parties by agreement are legally entitled to restrict themselves to the jurisdiction of a particular court for determination of the dispute arising between them. It has been highlighted that the reliefs which have been prayed in the present suit necessarily emanate from the dealership agreement and therefore the exclusion clause relating to the jurisdiction is definitely attracted. Emphasizing the concavity in the impugned order, it has been argued that the learned court below has failed to appreciate the extent and scope of the said exclusion cause in all its ramifications and has thereby wrongly decided the issue of jurisdiction. It has been urged that the said exclusion clause not only covers a dispute arising out of the dealership agreement but is also attracted in the case of a dispute incidental to the said agreement. It has finally been submitted that in any view of the matter the dispute presently raised by the plaintiff in the suit is, at the least, incidental to the dealership agreement and as such the jurisdiction

of the court to entertain the suit is clearly excluded.

Per contra, the learned counsel for the sole respondent has submitted that the dealership agreement admittedly came to an end on 31.03.2013 and in absence of any specific case of the defendants regarding appointment of the sole respondent as dealer thereafter, the retreat to any of the terms and conditions including the exclusion clause relating to the jurisdiction is clearly misconceived. It has been emphasized that the dispute/claim of the plaintiff as evident from the plaint is not at all related to the period prior to 31.03.2013 when the dealership agreement came to an end and is also not arising out of any claim or liability incurred during the subsistence of the dealership agreement. It has been propounded that the term 'incidental' can not be given too wider a meaning and amplitude to cover each and every dispute arising between the plaintiff and the defendants for all times to come. Elaborating the submissions, it has been canvassed that even the exclusion clause in the dealership appointment letter is unambiguous in this regard whereby its application has been restricted to any dispute arising out of or incidental to the dealership agreement and terms and conditions mentioned in the dealership appointment letter. It has been urged that the intention of the parties to the restrictive nature of the said



exclusion clause is self evident and by necessary corollary, the dispute which has not arisen out or incidental to the dealership agreement and the terms and conditions thereof as mentioned in the appointment letter is beyond the reach of this clause. The learned counsel has also made submission relating to the bar of res judicata and maintainability of the C.W.J.C. No. 20630 of 2014.

The learned counsel for the parties in support of their submissions have placed reliance upon a number of decisions of the Apex Court as well as other courts which shall be referred appropriately later on in this judgment.

In view of the rival submissions on behalf of the parties, the spinal issue which emerges for consideration relates to the scope, interpretation and applicability of the exclusion clause relating to the jurisdiction as contained in the dealership agreement/appointment letter in the context of the present suit. As such, before referring to the relevant pleadings of the parties in the suit it would be seemly to take into notice the said exclusion clause as mentioned in the dealership appointment letters (Annexure-7 series) as follows:-

*“....Since the allotment of vehicles is made
from Pune, since this letter of appointment*



as dealer is issued at Pune and since your appointment as dealer will be effective only after receipt of your confirmation by us at Pune, any dispute arising out of or incidental to the appointment letter and terms and conditions mentioned therein, shall be subject to the jurisdiction of the court of city of Pune according to the law for the time being in force in the city of Pune and any such dispute shall be decided and determined in the court of city at Pune also.”

It would also be apposite to take into notice the another clause in the appointment letter relating to fresh appointment as dealer. This clause reads as follows:-

“.....If you desire us to consider your case for fresh appointment as dealer for ‘Bajaj’ vehicle after the authority of this appointment letter, you should apply for such fresh appointment at least one month before date of expiry of the period of dealership stipulated in this appointment

letter...”

From the dealership appointment letters as contained in annexure 7 series, it is evident that the plaintiff was appointed as dealer at first for the period from 12th April 2002 to 31st March 2003. The last letter of dealership appointment dated 21.02.2011 also clearly mentions that the dealership was for the period from 1st April 2011 to March 31st 2013. It is not the case of either of the parties that the plaintiff ever applied seeking fresh appointment as dealer before the expiry of the term of dealership on 31st March 2013 or at any time thereafter. No other clause in the dealership appointment letter has been brought to the notice of this Court to show that the dealership agreement could have been renewed or extended even otherwise also except as envisaged.

From the perusal of the averments made in the plaint, it becomes transparent that the plaintiff has nowhere claimed that the dealership agreement was ever extended or renewed. On the other hand, it is the case of the plaintiff in paragraph-10 of the plaint that the defendant no. 4 on 19.03.2013 at company regional office had assured the plaintiff to provide BFL facility to the plaintiff's dealership from 1st April 2013 and further also assured to make regular supply of two wheelers and their spares as per requirement of the plaintiff. The further case of the plaintiff in



paragraph-11 is that the defendants invited the plaintiff alongwith other dealers to participate in dealers' meet treating him to be a bonafide dealer of the defendants. The subsequent averments in the plaint contain the allegations against different defendants culminating in the email letter dated 24.07.2013 by the defendant no. 3 to the plaintiff containing allegations of poor performance of the plaintiff as dealer and threatening to appoint a new dealer. The further averments in the plaint contain the assertions of the plaintiff to be continuing in the business of two wheelers of the defendant company and questioning the authority of the defendants to appoint a new dealer at Begusarai by inviting applications in that regard through advertisement. Manifestly, there is no assertion by the plaintiff of continuing with the dealership of the defendants in pursuance to the dealership agreement which ended on 31st March 2013 or doing any act as authorized or entitled under or in pursuance to the terms of the said agreement.

At this juncture, it would be worth noting that the defendants in their pleadings have nowhere alleged violation of the terms and conditions of the expired dealership agreement by the plaintiff and have also not raised any claim/liability of the plaintiff arising out of the said agreement. The stand of the

defendants as disclosed in their joint written statement filed in the suit is that since March 2011 onwards the plaintiff was informed about the poor performance and given opportunity to improve the same but after the failure of the plaintiff to perform as expected, the defendants has stopped the renewal of the plaintiff's dealership from 1st April 2013. In paragraph-11 of the written statement also, it is specific case of the defendants that the plaintiff has ceased to be the authorized dealer of the two wheelers vehicle of the defendants with effect from 31st March 2013 as the plaintiff's appointment as such has not been renewed. The defendants have also referred to and quoted the term in the appointment letter of dealership relating to the fresh appointment as dealer after the validity of the appointment letter requiring application for fresh appointment at least one month before the date of expiry of the period of dealership stipulated in the appointment letter. It has also been pleaded that the plaintiff has acquiesced to the termination of the dealership from 1st March 2013 as valid as he has not applied for renewal of his appointment. The defendants have further accepted to have sent the email in July 2013 to the plaintiff stating the same to be the culmination of the repeated informations sent by them to the plaintiff regarding poor performance and also regarding the appointment of new dealer at

Begusarai.

From the pleadings of both the parties, it is therefore graphically clear that both the parties in no uncertain terms have accepted that the dealership agreement between the plaintiff and the defendants has come to an end on 31st March 2013. The plaintiff has nowhere claimed any right or entitlement arising out of the said dealership agreement. The defendants on their part have also come out with the specific case that after the term of the dealership of the plaintiff expired on 31st March 2013, the plaintiff has accepted the expiry of the dealership as he did not choose to apply for fresh appointment as dealer, as required. It is lucent therefore that none of the parties has in any manner based his case on the violation of the terms and conditions of the expired dealership agreement or has made any claim arising out of the said dealership agreement. Evidently, the dispute between the parties relates to acts or happenings taking place after the expiry of the dealership agreement and it is therefore obvious that no recourse to the terms of expired dealership agreement is necessary to resolve the issues arising in the suit.

Examining this aspect from another angle, the plaintiff has claimed to be continuing in the business of two wheelers of the defendants even after the expiry of the dealership



agreement and has made assertions leading to inference of overt or tacit approval/acceptance of the same by the defendants. In the written statement, as noticed above, there is complete and specific denial of the continuance of the plaintiff as dealer after the expiry of the dealership agreement. But significantly enough in the writ application in paragraph-30, a new case has been introduced that the respondent/ plaintiff vide his email dated 24.07.2013 requested the petitioner/defendants to continue with the work of dealership till a new dealer is appointed and thereafter the period of dealership has been extended by email dated 24.07.2013 upto limited period i.e. till the appointment of a new dealer. Though this fact has not been stated in the written statement by the defendants but nonetheless this only supports the case of the plaintiff that even after the expiry of the period of dealership he has continued in business with the approval/ acceptance of the defendants. The relevant part of the email dated 24.07.2013 (Annexure-7 series) by the defendants reads “We expect you to continue with normal service and sales operations of your Bajaj two wheeler dealership at Begusarai till the new dealer commences operations”. It is apposite to notice here that in this email communication there is no mention of the terms and conditions for such continuance in business as dealer by the plaintiff. This



communication also does not mention that the dealership of the plaintiff has been conditionally revived or extended for the limited period. It is not the case of the defendants that the plaintiff has accepted such limited and conditional revival/extension of his dealership. On his part, the plaintiff has specifically questioned the validity and propriety of the email communication and has asserted his right to continue in business as dealer of the defendants. This right and assertion of the plaintiff is perceptibly the core issue for determination in the suit and it is also evincible that the plaintiff has rested his claim on grounds which have no correlation with the terms and conditions of the erstwhile dealership agreement.

This factual scenario also leads to the irresistible inference that if there was some promise or acceptance by the defendants as claimed by the plaintiff to the revival, continuance or extension of the dealership of the plaintiff, its existence, nature and extent are to be determined. If it is found to exist, its enforceability is to be examined. But in any view of the matter all these issues have manifestly no correlation with any of the terms of the dealership agreement which has expired. If even according to the defendants, the continuance of the plaintiff as dealer is only a time gap arrangement, it is still to be seen as a question of fact



but in no manner, the existence of the time gap arrangement or any agreement otherwise are the questions arising out of the expired dealership agreement. Such questions also can not be incidental to the said dealership agreement and the terms and conditions thereof because the word ‘incidental’, as used in the exclusion clause, cannot be intended to have covered a fortuitous circumstance as in praesenti. The connotation of the word ‘incidental’ has come up for consideration before the Apex Court in the case of **Life Insurance Corporation of India Vs. Retired LIC Officers Association A.I.R. 2008 S.C. 1485** and their Lordships have laid down as follows:-

“21..... The word “Incidental” has been defined in Advanced Law Lexicon 3rd (2005) Edition, Book 2 at 2275 to mean:-

“According to Stroud’s Judicial Dictionary, a thing is said to be incidental to another when it appertains to the principal thing. According to the ordinary Dictionary meaning, it signifies a subordinate action. Hukumchand Jute Mills Ltd. Vs. Labour Appellate Tribunal, AIR 1958 Cal. 68, 70. (Industrial Disputes

Act (14 of 1917), S. 10 (4)).

The word “incidental” does not imply any casual or fortuitous connection. In a legal sense as applied to power, it means a power which is subsidiary to that which has been expressed, and of an instrumental nature in relation thereto, which is both necessary and proper for the carrying into execution of the main power which has been expressly conferred. (Dunichand and Co. Vs. Narain Das and Co. (1947) 17 Comp. Cas. 195 (FB)).”

In the present case, the gravamen of the controversy between the parties, as is demonstrable, pertains to the happenings taking place after the expiry of the dealership agreement and is perceptibly dehors the said agreement as neither party has claimed breach or entitlement under any of the terms and conditions of the said agreement. Under these circumstances, therefore, the exclusion clause in the expired dealership agreement cannot be made edifice to uphold the objection to the territorial jurisdiction of the learned court below to entertain the suit. The said exclusion

clause has definitely perished with the dealership agreement.

Precedents galore have been cited by the learned senior counsel for the petitioners to bolster the contention that even after the expiry of the dealership agreement, the exclusion clause would still be operative between the parties. Majority of these decisions deal with the nature, scope and applicability of the arbitration clause after the contract has come an end and it would be profitable only to notice the rule laid down in ***Heyman Vs Darwins Ltd., 1942 AC 356***, which has been followed “uptil now, that an arbitration clause *‘is collateral to the substantial stipulations of the contract. It is merely procedural and ancillary, it is a mode of settling disputes.....All this may be said of every agreement to arbitrate, even though not a separate bargain, but one incorporated in the general contract’*.”

However, in Heyman’s case itself it has been further observed as follows:

“...If, however, the parties are at one in asserting that they entered into a binding contract, but a difference has arisen between them as to whether there has been a breach by one side or the other, or as to whether circumstances have arisen which



have discharged one or both parties from further performance, such differences should be regarded as differences which have arisen “in respect of”, or “with regard to”, or “under” the contract, and an arbitration clause which uses these, or similar, expressions, should be construed accordingly. By the law of England (though not, as I understand, by the law of Scotland) such an arbitration clause would also confer authority to assess damages for breach even though it does not confer upon the arbitral body express power to do so....”

I do not agree that an arbitration clause expressed in such terms as above ceases to have any possible application merely because the contract has “come to an end”, as, for example, by frustration. In such cases it is the performance of the contract that has come to an end.’

The principles applicable with regard to arbitration clause are almost similar to the applicability of the exclusion



clause relating to jurisdiction of a court in an agreement but the basic ingredient remains the same that the dispute must have arisen out of the agreement where such clause has been incorporated. As has already been found in the present case that the issues arising in the suit do not at all relate to the expired dealership agreement, these decisions relied upon on behalf of the petitioners have no direct bearing on the question presently arising for determination.

Similar is the position with regard to the decisions relied upon by the learned senior counsel for the petitioners laying down and reiterating the principle that the parties by agreement can restrict themselves to the jurisdiction of a particular court, having jurisdiction, for resolution of their dispute. Another set of decisions relate to the nature and scope of the bar of res judicata which have been cited in response to the submissions by the learned counsel for the sole respondent raising the plea of bar of res judicata in the facts and circumstances of the case. However, in view of the finding on the core issue as above, this Court does not find it necessary to determine the technical plea of res judicata.

For the aforesaid reasons and discussions, this Court finds that the impugned order in the two writ applications suffers from no error or illegality and requires no interference under

Article 226 and 227 of the Constitution of India.

Accordingly, both the writ applications are dismissed.

(V. Nath, J)

Devendra/Nitesh-

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