

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

M/s Sumeru Packagings Private Limited. ..Petitioner
-Versus-
M/s SKC Poly Engineering Private Limited. ..Respondent

DATE :- 25th February, 2015

1 The Petitioner is aggrieved by the order passed by the Trial
Court dated 30.10.2014 below Exhibit-1 in RCS No.670/2012.

2 The grievance is that the suit has been preferred by the Respondent/ Plaintiff for seeking recovery of an amount of Rs.2,12,776/- along with interest at the rate of 18% per annum with effect from 2011.

3 The Petitioner/ Defendant had prayed for framing of a preliminary issue as regards the jurisdiction of the Trial Court in entertaining the suit. Reliance was placed on Section 20(a) of the Code of Civil Procedure.

4 The submission is that the purchase orders were issued by the Petitioner factory situated at Ahmednagar. The Respondent herein was under the business agreement to supply the goods. The payment in pursuance to the supply of goods was being made from Ahmednagar. In such circumstances, Section 20(a) clearly prohibited the Trial Court at Aurangabad in entertaining the said suit.

5 The grievance of the Petitioner is that the Trial Court should have only considered the place at which the Defendant resides or carries on business or personally works for gain. Since the goods supplied from Aurangabad were meant to be utilized for manufacturing the final product at Ahmednagar, Section 20(a) would be applicable to the instant case.

6 By the impugned order, the Trial Court has concluded that the recovery of amount was the subject matter of the suit at the behest of the Respondent/ Plaintiff. The goods were manufactured by the Respondent factory at Aurangabad. The goods were supplied from Aurangabad. The bills were raised from Aurangabad and the payment was to be sent by the Petitioner factory to the Respondent factory at Aurangabad.

7 Mr.Joshi, learned Advocate appearing on Caveat for the Respondent, has strongly supported the impugned order. He submits that the cause of action has arisen on account of non payment of the costs of the goods supplied to the Petitioner. The goods supplied were manufactured at Aurangabad and as such, Section 20(c) of the Code of Civil Procedure would be applicable to the facts of this case.

8 I have considered the submissions of the learned Advocates. The issue is as regards the place where the cause of action has occurred. Admittedly, the payment made by the Petitioner was towards the costs of the goods supplied. The goods were manufactured at Aurangabad and the bills used to be raised after the goods were supplied from Aurangabad. Naturally, the Petitioner used to make the payment from Ahmednagar and the said payment was received by the Respondent at Ahmednagar.

9 Section 20 of the Code of Civil Procedure reads as under:-

- “20. *Other suits to be instituted where defendants reside or cause of action arises.*
 Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction:-
- (a) *the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries*

- (b) *on business, or personally works for gain; or any of the defendants, where there are more than one, at the time of the commencement of the suit actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or*
- (c) *the cause of action, wholly or in part, arises.*

Explanation:- A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”

10 It is, therefore, clear that the cause of action wholly or in part has arisen at Aurangabad since the suit was instituted by the Respondent on account of the payment having allegedly not been made by the Petitioner for the goods manufactured and supplied from Aurangabad.

11 I, therefore, do not find any error committed by the Trial Court in passing the impugned order. The Writ Petition is devoid of merit and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)