

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

C. R No. 8166 of 2015 (O&M)

Date of decision : 03.12.2015

M/s Shree Chamundeshwari Sugars Ltd & anr.Petitioners

versus

M/s Spray Engineering Devices Ltd. ...Respondents

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Deepak Suri, Advocate
for the petitioners.

RITU BAHRI , J. (Oral)

Challenge in this petition is to order dated 07.11.2015 passed by learned Civil Judge (Jr. Divn.), Chandigarh whereby application under Order 7 Rule 10 CPC filed by the petitioners/defendants (herein after to be referred as 'petitioners') has been dismissed.

Brief facts of the case are that the plaintiff/respondent supplied sugar manufacturing equipment's to the petitioners at Mandya in Bangalore and the petitioners ordered the supply of material worth Rs.235 lacs vide its letter dated 31.01.2006 (P-13) addressing to the respondent at its Panchkula office. Some dispute

arose between the parties and the respondent filed a suit for recovery of Rs.1,01,33,945.20/- against the petitioners before the Court of Civil Judge (Jr. Divn.) Chandigarh and the petitioners filed their written statement and stated that the Court at Chandigarh had no jurisdiction to entertain the suit of the respondent, as all the disputes are subject to Bangalore jurisdiction, as per terms and conditions of the agreement. Thereafter, the petitioners moved the impugned application under Order 7 Rule 10 CPC for return of plaint to Bangalore. The respondent filed a reply to the application and stated that the application was filed just to delay the proceedings.

Learned counsel for the petitioner submits that once an agreement was entered between the parties regarding jurisdiction of Court at Bangalore in case of any dispute, thereafter, the respondent-company can't file the suit at Chandigarh.

Reference has been made to a judgment of Hon'ble the Supreme Court in cases of ***ONGC Ltd vs. M/s Modern Construction and Co, 2014(1) RCR (Civil) 217, M/s Swastik Gases P. Ltd vs. I.O.C Ltd, 2014(1) RCR (Civil) 52, Excel Dealcomm Pvt. Ltd vs. Asset Reconstrucion Co (India) Ltd and others, 2015 (8) SCC 219 and judgment of this Court in a case of I.O.C Ltd vs. Uppal Engineering (P) Ltd and anr, AIR 2006 P&H 71.***

Heard learned counsel for the petitioner

The trial Court dismissed the application of the petitioner and observed that there is no agreement between the parties conferring the jurisdiction on the Courts at Bangalore only. The respondent has specifically mentioned the jurisdiction of Chandigarh Courts on some invoices, has mentioned in the communications Ex P16 to P18 that its registered office is at Chandigarh and has received some payments including the first payment of more than Rs.46 lacs reflected in account statement Ex P14 at Chandigarh and has served the demand notice upon the petitioners from Chandigarh and has received a supply thereto at Chandigarh. The respondent further gave an offer to the petitioners with regard to jurisdiction at Solan or Chandigarh, vide purchase orders (Ex PA/28 to Pa/31). Ex P13 has been produced in the Court by learned counsel for the petitioner. A careful reading of this Exhibit shows that firstly this is not an agreement between the parties and it was only a purchase order for implementation of "Energy Conservation Scheme". In the stamp of this document, there is no independent signatures of any officer of the respondent. After column No. 15, signatures of the Managing Director of the petitioners are there. The respondent had specifically mentioned the jurisdiction at Chandigarh on the communications Ex P-

16 to Ex P18. Some payments including the first payment of more than Rs.46 lacs reflected in the account statement Ex P14 at Chandigarh.

The judgments cited by learned counsel for the petitioner will be of no help, as these were the cases where there were clear agreement between the parties and in the present case there is no agreement between the parties and the petitioners are only relying upon the purchase order (Ex P13). Further the respondent had received some of its payment at Chandigarh and had its office at Chandigarh.

In view of the above, the trial Court had rightly dismissed the application of the petitioners.

The petition is dismissed.

03.12.2015
G Arora

(RITU BAHRI)
JUDGE