

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

RSA No.4385 of 2012 (O&M)

Date of decision : 30.11.2015

M/s Varun Electronics Kunjpura Road, Karnal (Haryana)

...Appellant

Versus

M/s Daewoo Anchor Electronics Ltd.

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Sanjiv Gupta, Advocate for the appellant.

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**AMIT RAWAL, J. (Oral)**

Mr. Sanjiv Gupta, learned counsel appearing on behalf of appellant-defendant submits, that cost as noticed in the order dated 10.07.2015 has been deposited during the course of day and receipt thereof has been handed over to the Court.

**CM No.12216-C of 2012**

For the reasons stated in the application, which is duly supported by an affidavit, delay of 76 days in refiling the present appeal is condoned.

Application stands allowed.

**CM No.12217-C of 2012**

The application is allowed as deficiency in Court fees has been made good subject to all exceptions.

Application stands disposed of.

**Main Case**

The appellant-defendant is in Regular Second Appeal against the concurrent findings of fact, whereby suit for recovery of Rs.4,51,569.92/- along with interest @ 10% p.a. from the date of filing of the suit till its realisation, has been decreed.

Mr. Sanjiv Gupta, learned counsel submits, that specific objections vis-a-vis territorial jurisdiction of Faridabad Court was taken in the written statement and issue No.5 in this regard was also framed. As per the Memorandum of Understanding, in case of any dispute, the jurisdiction of Court at Faridabad was ousted. However, suit at Faridabad did not have territorial jurisdiction, therefore was liable to be dismissed. He further submits that entire amount, as per the version of the plaintiff was paid and thus prays that there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial questions of law arises for determination.

I have heard learned counsel for the appellant and appraised the paper book.

It is a matter of record that the transaction between the parties to the lis had taken place by supplying the material agreed to be sold as per the Memorandum of Understanding from Faridabad to Karnal and in case of any defect, the defective material was returned to the plaintiff at Faridabad.

In view of provision of Section 20(c) of the Code of Civil Procedure,

Faridabad Court had the territorial jurisdiction to try and decide the case, therefore, the plea vis-a-vis jurisdiction is hereby rejected. As regards the payment of the entire outstanding amount, both the Courts below have on the basis of the admission of the appellant-defendant found that certain amount was due and as well as alleged defective material had also not been supplied. It is in these circumstances the respondent-plaintiff was constrained to file the suit.

It would be apt to reproduce the relevant findings of the trial Court vis-a-vis admission of the appellant-defendant:-

*“The proprietor of defendant had admitted that at the time of MOU an amount of Rs.10,12,312/- was outstanding against the defendant. He further admitted all the terms and conditions of MOU in his cross examination. He admitted that he had not returned back the whole material as discussed in MOU and only part of the material as discussed in MOU and only part of the material was sent back. He further admitted that there is no mentioned of cash discount in the MOU and similarly there is no mentioned of pending payment of customers in it. He admitted that the said payment of customer was regarding services provided to the customers before MOU. When it is so, the said matter also must have been settled at the time of MOU. He further admitted that there is no mention of the fact that the material of Rs.2 lac was lying in his premises, in the MOU. Similarly, there is no mention of point scheme in the MOU and liability of plaintiff to issue credit note of Rs.42,000/- towards said scheme. Similarly, there is no mention of any outstanding towards the defendant in the MOU. In view of admission of defendant and also the terms and conditions of MOU, it*

*becomes clear that the amounts claimed by defendant are not recoverable by the defendant.”*

In view of the aforementioned observations, I do not find any ground in interfering in the concurrent findings of fact rendered by both the Courts below based upon appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination.

Appeal is dismissed.

**30.11.2015**

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**(AMIT RAWAL)  
JUDGE**