

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.375 OF 2015
 IN
 LEAVE PETITION NO.305 OF 2014
 IN
 SUIT (L) NO.879 OF 2014

...
 Swati Spentose Pvt. Ltd. Appellant
 V/s
 Sartorius Stedim India Pvt. Ltd. & Anr. Respondents
 ...

Mr. Bhavik Manek i/b Mr. V.N. Ajitkumar for the Appellant.
 Mr. Sharan Jagtiani a/w Ms. Ankita Singhania, Ms. Silpa Nair, Ms. Lizum
 C. Wangdi and Mr. Rudrajit Ghosh i/b Tri Legal for Respondents Nos. 1 & 2.

...
CORAM : A.S.OKA &
A.A. SAYED, JJ.
DATED : 19 JULY 2016

P.C.:

Heard the learned Counsel appearing for the Appellant and the learned Counsel appearing for the Respondents. Notice for final disposal was issued in terms of the order dated 7 June 2016, which reads thus:

“Learned Counsel appearing for the Appellant states on instructions that Appellant is not challenging the main part of the order by which the leave under clause XII of the Letters Patent has been refused. His submission is that a clarification needs to be issued that the Appellant can file a Suit not only in the Court at Bangalore but also in the Court having jurisdiction over Vapi. We accept the aforesaid statement. Hence, for the purposes of considering this limited grievance, issue notice for final disposal at the admission stage, returnable on 19 July 2016. Hamdast allowed. Appeal to be listed in the category of “fresh matters”.

2. We have heard the learned Counsel for the parties. We have carefully perused the impugned order. The finding recorded in paragraph 4 of the impugned order dated 22 December 2014 is only for the limited purposes of deciding the Application made under Clause 12 of the Letters Patent for grant of leave. On plain reading of the order, the effect of the order is that the Application for grant of leave is rejected and the plaint is ordered to be returned for presentation to proper Court.

3. As stated earlier, by the impugned order, the learned single Judge has purported to return the plaint on the ground that this Court does not have a territorial jurisdiction to entertain the suit. While passing the order of return of the plaint and while refusing to grant leave under Clause 12, the learned single Judge could not have decided the issue as to which Court will have the jurisdiction to entertain the suit. It is, therefore, obvious that the said issue remains expressly open and the impugned order cannot be construed to mean that only the Civil Court at Bangalore will have the jurisdiction to entertain the suit filed by the Appellant.

4. With the aforesaid clarification, the Appeal is disposed of. We direct the Prothonotary and Senior Master to issue full refund of Court fees to the Appellant.

5. At this stage, the learned Counsel appearing for the Appellant/Plaintiff makes an application for invoking sub-rules (2) and (3) of Rule-10A of Order VII of the Code of Civil Procedure, 1908. He states that he proposes to file the suit in the Court of Civil Judge, Senior Division at Vapi in the State of Gujarat. He states that the suit will be presented to the Court at Vapi within a period of six weeks from today. He prays that a date for appearance of the parties in the said Court may be fixed.

6. Learned Counsel appearing for the Respondents submits that the Respondents are not accepting that the Court of Civil Judge, Senior Division at Vapi has jurisdiction to entertain the suit of the Appellants.

7. We accept the statement made by the learned Counsel appearing for the Appellant-Plaintiff that the suit will be instituted in the Court of Civil Judge, Senior Judge at Vapi in the State of Gujarat within a period of six weeks from today. Accordingly, we fix the date of appearance before the Court of the learned Civil Judge, Senior Division at Vapi in the State of Gujarat as 19 September 2016 at 11 a.m. The parties shall accordingly appear before the concerned Court.

8. We make it clear that notwithstanding this order, it will be open for the Respondents to question the territorial jurisdiction of the Court at Vapi to entertain the suit and all issues in that behalf are kept open.

(A.A. SAYED, J.)

(A.S.OKA, J.)