

O.A.No.808 of 2012
and A.No.877 of 2013
and A.No.374 of 2012

RAJIV SHAKDHER, J.

1. On the previous date, i.e., 19.10.2016, at the request of the learned counsel for the parties, I had directed the Registry, *albeit*, inadvertently, to list before me O.A:374 of 2012.

2. Counsel for the parties, correctly point out that what was required to be listed before this Court is A.No.374 of 2012.

3. To be noted, though in the cause list, O.A.No.374 of 2012 has been shown, fortunately, the Registry has sent the papers concerning A.No.374 of 2012 along with other connected applications being OA: 808 of 2012 and Application: 877 of 2013.

4. Accordingly, I asked the counsel for the parties, as to whether they would, in these circumstances, like to continue with the arguments.

5. Counsels have submitted that they would want to continue with the arguments, in the matter.

6. Having heard the learned counsel for the parties, at some length, it is evident that they had agreed to the jurisdiction of Delhi or Calcutta [now Kolkata] to the exclusion of other Courts.

7. Mr.Ravi, learned counsel appears for the applicant in O.A.No.808 of 2012 says that, jurisdiction, if at all, would lie in Calcutta, and that, no part of cause of action arises in Delhi.

7.1. Learned counsel, however, concedes that given the present state of law, as enunciated in *Swastik Gases Private Limited Vs Indian Oil Corporation Limited [2013] 9 Supreme Court Cases 32*, this Court would have no jurisdiction.

7.2. Accordingly, learned counsel seeks leave to withdraw the application with liberty to approach the appropriate forum, albeit, in accordance with law.

7.3. Learned counsel further states that he had enjoyed an injunction since 27.09.2012, and therefore, that order be continued, for a period of two weeks from the date of receipt of a copy of the order.

8. Ms. Rajini Ramadoss, who appears for the respondent, says that she has no difficulty, if this Court, were to direct that order dated 27.09.2012, would continue to operate for a period of two (2) weeks.

9. Accordingly, leave is granted to the applicant in O.A.No.808 of 2012, to withdraw the application with liberty to approach the appropriate Court.

9.1. To facilitate this exercise, it is made clear that order dated 27.09.2012, shall continue to operate for a period of two (2) weeks from the date of receipt of a copy of the order.

9.2. Failure to approach the Court, within the time frame indicated above, will result in, the order dated 27.09.2012, dissolving automatically.

10. In the aforesaid circumstances, the application filed by the respondent, which is Application:877 of 2013, has been rendered infructuous and is not pressed.

10.1. Insofar as, Application: 374 of 2012 is concerned, I am informed by Mr.Ravi, that an interim order dated 01.02.2012 was passed in the said application, as well.

11. Having regard to the fact that this Court has no jurisdiction, similar liberty is sought by Mr.Ravi, as was sought in O.A:808 of 2012.

12. Accordingly, the said application is also dismissed, as withdrawn, with liberty to the applicant to approach the appropriate Court, albeit, in accordance with law.

13. To facilitate, once again, this exercise, order dated 01.02.2012, will continue to operate for a period of three (3) weeks from the date of receipt of a copy of the order.

14. In the given circumstances, the captioned applications shall stand closed.

24.10.2016

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RAJIV SHAKDHER, J.

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