

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 3991 of 2015**

**Date of Decision: 09.02.2016**

M/s Electrorama

... Petitioner(s)

Versus

M/s Swaran Talkies, Hoshiarpur

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Shekher Dhawan.**

- |    |                                                                       |            |
|----|-----------------------------------------------------------------------|------------|
| 1. | Whether reporters of local newspapers may be allowed to see judgment? | <b>Yes</b> |
| 2  | To be referred to reporters or not?                                   |            |
| 3  | Whether the judgment should be reported in the Digest?                | <b>Yes</b> |

Present: Mr. Surinder Thakur, Advocate  
for the petitioner(s).

Mr. M.S.Kang, Advocate  
for the respondent(s).

**Shekher Dhawan, J.**

Present petition is against order dated 19.5.2015, passed by learned Additional Civil Judge (Senior Division), Hoshiarpur, whereby application under Order 7 Rules 10 & 11 CPC read with Section 151 CPC, filed by the petitioner for rejection of plaint, was dismissed.

Facts relevant for the purpose of decision of present petition that certain refurbishing were to be carried out in the cinema hall so as to convert the same into cineplex for the payment of ₹

48,00,000/- . On receipt of ₹ 45,00,000/-, present petitioner supplied the equipments to the respondent. The invoices and receipts are Annexures P2 to P6. As per petitioner, in terms of invoices, in case of any dispute, the same was to be referred to the jurisdiction of the Courts at Delhi. As such, both the parties were in the knowledge that the Civil Courts at Delhi have the jurisdiction to deal with the dispute. The entire installation work was done by the petitioner to the satisfaction of the respondent and on 12.12.2010, respondent informed the petitioner regarding technical defects having been developed in the system. Petitioner company deputed Technician and made the system functional to the satisfaction of the respondent. Petitioner requested the respondent to make payment of ₹ 3,96,000/- which was the outstanding amount and hence, petitioner approached the Civil Courts at Delhi for recovery of the said amount. On 3.2.2011, Court of Additional District Judge, Delhi returned the case file for want of territorial jurisdiction and review application was filed. Learned Additional District Judge, Delhi reviewed his earlier order dated 3.2.2011 that the territorial jurisdiction was to be decided by way of evidence only.

As per petitioner, respondent filed civil suit at Hoshiarpur which was a counterblast to the suit filed by the petitioner. The said civil suit was filed on frivolous grounds for the recovery of ₹ 5,00,000/-. Petitioner appeared before the Court below and moved an application under Order 7 Rule 11 CPC read with Section 151 CPC for rejection/return of the plaint. However, the Court below, without

appreciating the real controversy, dismissed the application and the same is liable to be set aside. Learned counsel for the petitioner placed reliance upon the judgments rendered by the Division Bench of Delhi High Court in case ***Romesh Power Products Pvt. Ltd. And Another v. Pramod Gupta 2013(7) RCR (Civil) 2620***, and ***M/s Agroha and Another v. M/s KLJ Pollyalloys 2012(10) AD(Delhi) 473*** and ***Suresh Chand Purwar (Karta) v. Vivek Purwar and Others 2015(1) RCR (Civil) 141***.

While arguing on this point, learned counsel for the respondent took the view that the Court below has rightly dismissed the application under Order 7 Rule 11 CPC. The Court below rightly took the view that equipments were installed at Hoshiarpur and the cause of action had arisen at Hoshiarpur also. So, the Courts at Hoshiarpur had got the jurisdiction to try the present suit.

Having considered the submissions made by learned counsel for the parties and the view taken by the Delhi High Court in cases ***M/s Agroha and Another v. M/s KLJ Pollyalloys*** and ***Suresh Chand Purwar (Karta) v. Vivek Purwar (supra)***, this Court is of the considered view that there is no dispute on the facts that the equipments were installed at Hoshiarpur. The cause of action had also arisen at Hoshiarpur and that way the territorial jurisdiction is of Civil Courts at Hoshiarpur. Such an application under Order 7 Rule 11 CPC for rejection of plaint on this ground is certainly liable to be dismissed because civil suit having been filed at Hoshiarpur is not barred. Such a view was taken by the Hon'ble Supreme Court in case ***P.V. Guru Raj***

**Reddy Rep. By GPA Laxmi Narayan Reddy and Another v. P. Neeradha Reddy and Others 2015(2) RCR (Civil) 43**, wherein it was observed that the conditions precedent to the exercise of power under Order 7 Rule 11 CPC are stringent. More so, plaint is to be read as a whole to find out whether the same discloses the cause of action or whether the suit is barred under any law. The plaint under Order 7 Rule 11 CPC can be rejected only if the averments in the plaint *ex facie* do not disclose the cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of trial. Applying the same principles of law to the present set of facts, on the basis of facts available on the file, cause of action has certainly arisen at Hoshiarpur and the jurisdiction of Civil Courts at Hoshiarpur cannot be rejected outrightly and as such there was no question of acceptance of application under Order 7 Rule 11 CPC and there is no illegality in the order under challenge. Present petition is dismissed being devoid of any merit.

**(Shekher Dhawan)  
Judge**

**February 9, 2016**

"DK"