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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 623/2005 and I.A. Nos. 24361/2015, 3822/2016 & 4130-4131/2016**

RAHUL JAIN

..... Plaintiff

Through: Mr. Arun Kumar, Advocate.

versus

VASANT RAJ PANDIT

AC+

..... Defendant

Through: Mr. Jagdev Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

04.04.2016

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1. Vide order dated 21.12.2015, the learned Joint Registrar had transferred the suit to the Court of the learned District & Sessions Judge (East), Karkardooma Courts, Delhi on account of the fact that the plaintiff's residence is situated at Nirman Vihar in East district.

2. When the case was so transferred before the learned District & Sessions Judge (East) on 15.01.2016, the defendant raised an objection to the territorial jurisdiction of the Court. On 09.02.2016, the learned District & Sessions Judge (East) sent the matter back to this Court for deciding on the point of jurisdiction as to whether the present suit has to be tried in the East district or South district.

3. I have heard learned counsel on the said aspect.

4. Firstly, there is no basis to even consider the trial of the suit by the learned District & Sessions Judge, South district. This is for the reason that on a perusal of the plaint and the documents filed with it, there is no material to suggest that the Court of the District Judge (South) would have jurisdiction in the matter. The plaintiff has filed the suit on the premise that the plaintiff was appointed by the defendant for rendering management consultancy services vide communication dated 03.08.2001. The said letter has been placed on record, which is addressed to the plaintiff at the plaintiff's address at B-167, Nirman Vihar, Delhi – 110 092.

5. The case of the plaintiff is that his charges towards incentive payments for sale of the products of the defendant through the plaintiff's network and outstanding professional fee as Showroom In-charge, Gurgaon, have not been paid by the defendant.

6. Learned counsel for the defendant submits that, in fact, the defendant has raised an issue with regard to the territorial jurisdiction of the Courts at Delhi in the written statement. However, no such issue was framed when the issues in the suit were framed vide order dated 18.11.2010.

7. Learned counsel for the defendant raised a plea that the issue be framed in that regard at this stage.

8. The further submission of learned counsel for the defendant is that even according to the plaintiff – who sent the notice dated 09.05.2003, his claim arose on account of his services as Showroom In-charge at Gurgaon. In this regard, reference has been made to the notice dated 09.05.2003 sent by the plaintiff.

9. There are two aspects in this regard, which may be noted. Firstly, the said notice raised a claim on two counts, namely Rs.44,75,455/- towards incentive payments for sale of the products of the defendant through the plaintiff's network during the period March 2002 to February 2003. The second count on which the payment is claimed in this notice is of Rs.5,77,500/- @ Rs.52,500/- per month towards outstanding professional fee for the period April 2002 to February 2003 as Showroom In-charge.

10. Learned counsel for the plaintiff states that in the present suit the second claim of Rs.5,77,500/- has not even been made.

11. On a perusal of the plaint and the documents filed by the plaintiff with the plaint, it cannot be said, on a demurrer, the plaint is liable to be returned on account of lack of territorial jurisdiction. Since, according to the plaintiff, the plaintiff rendered services to the defendant at his address, namely at B-167, Nirman Vihar, Delhi – 110 092, at this stage, it cannot be said that the Courts in Delhi would not have jurisdiction.

12. Accordingly, in my view, the suit was rightly transferred to the Court of the learned District & Sessions Judge (East), Karkardooma Courts, Delhi, where the plaintiff was appointed to render services, and the same shall be tried by the said Court.

13. Since the defendant has raised a plea that the Courts in Delhi would not have jurisdiction, the following additional issue is framed:

“Whether this Court does not have the territorial jurisdiction to entertain the present suit? OPD”

14. The parties shall appear before the learned District & Sessions Judge

(East), Karkardooma Courts, Delhi on 21.07.2016. No further notice shall be required to be given to the parties.

APRIL 04, 2016
B.S. Rohella

VIPIN SANGHI, J