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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 1426/2011 and I.A. Nos. 14741-14745/2011

SINGHAL FINSTOCK PVT LTD

..... Plaintiff

Through: Mr. Aseem Mehrotra, Advocate.

versus

MADKINI HYDRO POWER PVT LTD & ORS Defendants

Through: Mr. Aditya Dewan, Advocate for D-6 to 10, 12 and 13.

Mr. Ashish Verma, Advocate for D-1 and 11.

Mr. Arun Bhatta, Advocate for D-4 and 5.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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10.05.2016

1. This is a suit for recovery of Rs.3,10,77,560/- filed by the plaintiff-Singhal Finstock Pvt. Ltd. against a total of fifteen defendants.

2. A reading of the plaint shows that there are several causes of action jointly against several defendants. None of these defendants are residing in the territorial jurisdiction of this Court.

3. Also, a reading of the suit plaint shows that plaintiff relies upon the letters issued by defendant No. 2 dated 22.5.2008, 5.1.2009 and 22.10.2009, and all of which letters were not issued from New Delhi, but were issued from Dehradun. In view of the judgment of the

Supreme Court in the case of *Bhagwandas Goverdhandas Kedia v. Girdharilal Parshottamdas and Ors*, AIR 1966 SC 543 it is a place from where the letter is posted, would be the place where the contract is entered into and which will have territorial jurisdiction.

4. So far as the other defendants and other causes of action are concerned, the suit has to be instituted where the defendants reside or whole or part of cause of action arises, and which admittedly is not within the territorial jurisdiction of this Court.

5. Counsel for the plaintiff has taken instructions after a pass over and prays that though the suit be allowed to be withdrawn, liberty be granted to the plaintiff to sue the defendants qua their separate causes of action for recovery of moneys at the appropriate Courts of territorial jurisdiction. Plaintiff also seeks benefit of Section 14 of the Limitation Act, 1963, on account of bonafidely continuing the suit in the present Court.

6. In view of the above, though the suit is allowed to be withdrawn, liberty as prayed for is granted to the plaintiff to file separate suits against separate defendants qua the separate causes of action in separate Courts which have territorial jurisdiction, and when such suits are filed, since the plaintiff has acted bonafidely, the concerned Court is requested, in accordance with law, to give liberal benefit of Section 14 of the Limitation Act, 1963 to the plaintiff.

7. The suit is accordingly allowed to be withdrawn with the liberty as aforesaid.

8. Since the issues are not framed and the suit is withdrawn before framing of issues, plaintiff will be entitled to refund of 50% of the Court fee as per Section 16-A of the Court-Fees Act, 1870 (as applicable to Delhi) and the Registry will issue necessary certificate of 50% of the Court Fees in favour of the plaintiff.

VALMIKI J. MEHTA, J

MAY 10, 2016

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