

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 7435 of 2017 (O&M)

Date of Decision: November 13, 2017

M/s. Dutta Press Pvt. Ltd. and another

...Petitioners

Versus

M/s. Aum International Tapes Pvt. Ltd.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Bhaskar Sharma, Advocate
for the petitioners.

ANITA CHAUDHRY, J.

This revision is directed against the order dated 31.08.2017 (Annexure P-5), passed by the Civil Judge (Sr. Division), Faridabad, on the application filed under Order 7 Rules 10 & 11 CPC.

The plaintiff filed a suit for recovery pleading that they had supplied self adhesive tapes to defendant no.1 and had raised a bill. The copies of the bill were appended along with the plaint. It was alleged that the amount had not been paid and the suit for recovery was filed. In para 9 it was pleaded that the plaintiff works here at Faridabad and the cause of action accrued here and the Court had the territorial jurisdiction.

The defendants had filed the written statement. They also filed an application under Order 7 Rules 11 CPC pleading that the

Courts at Faridabad had no jurisdiction. It was pleaded that some of the goods were defective and those were rejected and they in fact had suffered loss and the plaintiff was liable to compensate them. It was pleaded that they were not carrying out any business at Faridabad.

After hearing both the sides, the lower Court observed that the case would fall under Section 20(c) of the Civil Procedure Code and as the plaintiff had supplied the goods to the defendants from Faridabad and the payment was to be made at Faridabad, therefore, the Courts at Faridabad had jurisdiction and it was not a case for rejection of the plaint. It also framed the issues and also with respect to the jurisdiction of the Court.

Aggrieved, the defendants have filed this petition.

I have heard the counsel for the petitioners at great length.

The counsel has referred to the observations made in para 2 of the order and he urges that there was no admission from their side that the goods were supplied by the plaintiff from Faridabad and no such fact is mentioned in their application or in their written statement and a wrong fact had been stated by the plaintiffs' counsel and the Court has dismissed their application without seeking any document from the plaintiff. Reliance was placed upon ***Federal Express Corporation Vs. Fedex Securities Ltd. and ors. 2017(71) PTC 155.***

It is settled that when the defendants seek rejection of the plaint, it is only the facts pleaded in the plaint which have to be examined. The defence taken in the written statement is not to be

looked into. The plaintiff had specifically averred that the cause of action accrued to him at Faridabad as the goods were supplied from there, therefore, it would be a matter of evidence. The lower Court has already framed an issue. The plaintiff will have to show whether the defendants had made any admission with respect to the fact referred to in para 2 of the order at the appropriate stage. There is a specific averment that the plaintiff's works are at Faridabad. He will have to prove that the goods were supplied from there.

I find no infirmity in the order. The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

November 13, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No