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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION No. 147 OF 2018

M/s. Amon Engineering Pvt. Ltd. ... Applicant  
Vs.  
Welbert Pharmaceuticals  
(Bombay) Pvt. Ltd. ... Respondent

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Mr. J. S. Kini i/b Sapna S. Krishnappa, for the Applicant.  
Ms. Karuna Yadav I/b Ramprakash R. Panday, for the  
Respondent.

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CORAM : A. M. DHAVALA, J.  
DATE : SEPTEMBER 5, 2018

PC :-

1. This application is filed under S. 24 C.P.C. by the defendant for transfer of Special Civil Suit No. 13 of 2017 from the Court of Civil Judge, S. D. Dadra Nagar Haveli, Silvassa and Summary Suit No. 358 of 2015, pending before the City Civil Court at Dindoshi to this High Court in its original jurisdiction.
2. Learned advocate appearing for the parties agree that there was a contractual liability of both the parties, which are pressed in both suits. The Applicant herein has filed suit for

recovery of Rs.12,44,357/- for breach of contract in Dindoshi Court in 2014, which is numbered as a summary suit whereas the opponent has filed a suit for damages of Rs. 51.50 crores at Silvassa Court. It is not disputed that both the matters relate to the same agreement, between the same parties, and with a common subject matter. As held by the Apex Court in **M/s. Chitivalasa Jute Mills Vs. M/s. Jaypee Rewa Cement**<sup>1</sup>, in para 12 in such cases, both the suits should be tried by one court by consolidation of the suits and such orders can be passed by the courts under S. 151 C.P.C. for prevention of multiplicity of proceedings, delay and expenses.

3. It is not disputed that the registered offices of both parties are situated in Mumbai. However, the works to be carried out was at Silvassa and it is not disputed that court at Silvassa has also jurisdiction to entertain, try and decide the special suit filed by the opponent.

4. The application is opposed by the opponent on a unique ground that in Dadra Nagar Haveli at Silvassa, the court-

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1 2004 (0) AIR (SC) 1687 : (2004) 3 SCC 85

fee is very low as per the Court-Fees Act. The maximum court-fee payable there is Rs.3,000/-, which has been paid and the suit has been numbered. The opponent apprehends that if the suit is transferred to Mumbai, he will be called upon to pay court-fee as per the Maharashtra Court Fees Act, and minimum court-fee would be Rs. 3,00,000/-. It is not disputed that if more courts are having jurisdiction, it is choice of the plaintiff to select the court, which is as per his convenience. However, learned advocate Mr. Kini for the Applicant pointed out S. 12 of the Court-Fees Act, 1817 and S.14 of the Maharashtra Court-Fees Act, which lay down that valuation of the suit and the amount of court-fee payable would be governed by the place where the suit has been instituted and the decision of that court shall be final. Prima-facie the apprehensions regarding additional court-fee required to be paid, can be dealt with as per Section 14 of the Maharashtra Court Fees Act. In order to avoid conflicting decisions, it is necessary that both suits should be tried together in one court. Since both the parties are having registered office at Mumbai, transfer of both suits at Mumbai will be convenient

to both the parties. Hence, the following order:

- (i) Both the suits, viz. Special Civil Suit No. 13 of 2017, pending on the file of Civil Judge, S. D. Dadra Nagar Haveli at Silvassa and Summary Suit No. 358 of 2014 pending on the file of City Civil Court at Dindoshi are transferred to this Court, on its original jurisdiction for trial according to law.
- (ii) Concerned judges of both the courts are directed to forward, the record and proceedings of above mentioned pending suits to this Court on original side, immediately.
- (iii) Both the parties are directed to appear before this Court on original side on 8<sup>th</sup> October, 2018.
- (iv) Misc. Civil application is disposed in the above terms.

Sd/-  
[ A. M. DHAVAL, J.]