

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION NO.1458 OF 2017

APPLICANT :- M/s Om Sai Rice Mill, through
Shri. Vijay Baluji Barai, Proprietor,
Th.Mohadi, Dist.Bhandara.

...VERSUS...

RESPONDENTS :-

1. M/s Arihant Agro & Fruit @ M/s Arihant food products, At Tah.Chamorshi
Dist. Gadchiroli
2. M/s.Vijaylaxmi Trading Company
through owner -Shri. Vijay Gorirwar at PO
and Tah. Mul, Dist. Chandrapur, 441 224
(MS)

Rajesh Gadhia a/w Ms.Sejal Lakhani, counsel for the applicant.
Mr.N.R.Bhishikar, counsel for respondent nos.1 and 2

CORAM : M. S. KARNIK, J.

DATE : 20.06.2018.

ORDER:

1. Rule. Rule returnable forthwith.
2. This is an application for transfer of Regular Civil Suit No.37 of 2016 filed by the respondent no.1 from the Court of

Civil Judge Junior Division, Chamorshi to the Court at Mohadi, District Bhandara and also seeking transfer of Regular Civil Suit No.31 of 2016 filed by the respondent no.2 before the Court of Civil Judge Junior Division, Mul to the Court at Mohadi.

3. The learned counsel for the applicant submitted that for non payment of certain bills in respect of purchase of grain by the respondents from the applicant, it has filed two separate civil suits for recovery of amount against each of the respondent in the Court at Mohadi as per RCS No.48 of 2015 and RCS No.49 of 2015 and said suits are pending. Thereafter, the respondents filed two separate Civil Suits for recovery of amount against the applicant in the Court at Mul and Chamorshi in respect of which the transfer is sought by the applicant.

4. The learned counsel for the applicant relied upon the bills on the basis of which the suit is instituted. My attention is invited to the cash credit memo in which it is mentioned that 'subject to Mohadi Courts jurisdiction'. The learned counsel contends that the bills in respect of which the suits are filed clearly stipulate that they are 'subject to the jurisdiction of Mohadi Court'. The

learned counsel for the applicant therefore, contends that the Courts at Chamorshi and Mul do not have jurisdiction to entertain the suit. In any case, it is submitted that by virtue of Sections 22, 23 and 24 of the Civil Procedure Code, this Court has power to transfer the suits in order to avoid contrary decisions as the parties are common and suits are instituted on the basis of similar bills for different amounts.

5. The learned counsel for the respondents opposes the application. He submits that the present application is not maintainable as effectively what is being contended by the applicant on the basis of the bills is that the Court at Mul and Chamorshi do not have jurisdiction to decide the suits. In his submission the applicant's remedy is to raise an objection to the jurisdiction of the Courts at Mul and Chamorshi before those courts.

6. Faced with this submission made by respondents, the learned counsel for the applicant submitted that he would file appropriate applications before the Courts at Mul and Chamorshi raising an objection to the jurisdiction of the Court to try and

entertain the suit. The learned counsel for the respondents has no objection to this course of action. In my opinion and in the interest of justice, if such an application raising an objection to the jurisdiction of the Courts at Mul and Chamorshi is filed by the applicant within a period of two weeks from today, the Trial Courts of Mul and Chamorshi are requested to hear and decide the said application within a period of 12 weeks upon filing of such application. Needless to mention that I have not expressed any opinion either on the contentions of the parties raised in this application or in respect of the jurisdiction to try and entertain the suit. All questions are kept open. Subject to what is stated herein above, the application is disposed of with no order as to costs.

7. Liberty to file an appropriate application for transfer of the suits at the appropriate stage if the occasion so arises.

8. Rule is disposed of in the above terms. No costs.

JUDGE

Kavita.