

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CR-4936 of 2017

Date of decision : 14.5.2018

M/s Ambience Pvt. Ltd. and others

..... Petitioners

VERSUS

M/s. Shivalic Power Control Pvt. Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Rahul Garg, Advocate for the petitioners.
Mr.Kartar Singh, Advocate for the respondent.

AMIT RAWAL, J.

The aforementioned revision petition is directed against the order dated 21.4.2017 whereby the application under Order 7 Rule 11 CPC moved by the petitioners for rejection of the plaint on the ground of territorial jurisdiction at Faridabad has been dismissed.

Mr.Rahul Garg, learned counsel for the petitioners submitted that concededly the office of the respondent-plaintiff is situated at Delhi. All the material goods have been supplied by the respondent either at Faridabad or at Delhi address, therefore, as per provisions of Section 20(a)(b) of the Code of Civil Procedure, the Court at Delhi would have jurisdiction.

Mr.Kartar Singh, learned counsel for the respondent submitted that as per averments in para 11 of the plaint, the goods were supplied from Faridabad, therefore, the Courts at Faridabad has jurisdiction to entertain and try the suit.

I have heard learned counsel for the parties.

No doubt, for adjudication of the application under Order 7 Rule 11 CPC, the averments made in plaint has to be seen. For the sake of brevity, para No.11 of the plaint is reproduced as under:

"That the plaintiff firm is running their business at Faridabad, the material was supplied from Faridabad and entire cause of action to file the present suit arose in favour of the plaintiff and against the defendants at Faridabad, within the territorial jurisdiction to entertain and try the present suit."

I am of the view that in such a situation, the controversy which has been arisen involves the mixed question of law and fact which cannot be adjudicated by simply treating the averments in the plaint as it is as it would require framing of preliminary issue regarding territorial jurisdiction. Therefore, the issue with regard to territorial jurisdiction would be treated as preliminary issue.

The trial Court shall decide the said preliminary issue regarding territorial jurisdiction after affording two-two effective opportunities to the parties for leading their respective evidence.

The petition is disposed of in the manner indicated above.

May 14, 2018
KD

(AMIT RAWAL)
JUDGE

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes / No