

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

125

CR No.7483 of 2017
Date of Decision:29.01.2018

M/s Girnar Impex Limited and another

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Viren Jain, Advocate
for the petitioners.

Mr. Saurabh Goel, Advocate
for respondent Nos.1 and 3.

Mr. Namit Gautam, Advocate
for respondent No.2.

Mr. R.K. Handa, Advocate for
respondent Nos.4 to 6.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs-petitioners are in the revision petition against the order dated 09.09.2017 dismissing the application filed by the plaintiffs under Order 7 Rule 10-A of the Code of Civil Procedure.

Plaint filed by the plaintiffs was order to be returned to the plaintiffs for lack of territorial jurisdiction vide order dated 04.09.2015. Thereafter, the plaintiffs filed an application on 21.12.2015 with a request to the Court to fix a date for appearance of the parties before the Competent Court at Gandhi Dham, Gujarat.

The aforesaid application has been dismissed on the ground that no such request was made at the time when order of return of the plaint was passed.

disputed that before ordering return of the plaint under Order 7 Rule 10 of the Code of Civil Procedure, the Court did not inform its decision to the plaintiff as provided under Order 7 Rule 10-A (1) of the Code of Civil Procedure enabling the plaintiff to file an application under Order 7 Rule 10-A (2) of the Code of Civil Procedure. Since the Court passed the order without following the procedure laid down, therefore, the plaintiff was left with no choice but to file an application after the order was passed for returning the plaint on account of lack of territorial jurisdiction.

In any case, the purpose of introducing Order 7 Rule 10-A is to save the time of the Transferee Court and give opportunity to the parties to appear and contest the suit without wasting time on the fresh service.

In view thereof, the revision petition is allowed. Impugned order is set aside.

Since all the parties are represented before this Court, therefore, parties through their counsel are directed to appear before the Court of Civil Judge (Senior Division), Gandhi Dham, Gujarat on 05.03.2018. Since the original record was called by this Court, the Registrar (Judicial) is requested to make an endorsement and return the original file. The Court would return the plaint, written statement and documents filed after keeping a photocopy thereof to the counsel for the petitioner.

29.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No