

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

901 COMMERCIAL APPEAL NO.1 OF 2019

M/S VITAL SHELTERS (P) LTD., HYDERABAD, REPRESENTED BY
ITS MANAGING DIRECTOR KESHAV K. RAO

VERSUS

M/S AUTOMOBILE PRODUCTS OF INDIA LTD., CHENNAI AND OTHERS

...

Advocate for Appellant : Shri Dodya S.G.

Advocate for Respondent nos.1 to 4 : Shri S.V. Vavre

Advocate for Respondent nos.5,7 & 9 : Shri V.A. Bagadiya

Advocate for Respondent nos.6 & 8 : Shri A.S. Barlota

Advocate for Respondent nos.10 & 11 : Shri S.S. Dande

**CORAM: PRADEEP NANDRAJOG, CJ &
R.G. AVACHAT, J.**

DATE: 26.09.2019

PER COURT :

1] Learned counsel for the appellant states that challenge to the impugned order holding the suit not to be a Commercial Suit and therefore to be tried before the Civil Court having territorial jurisdiction may be maintained with a modification of the part which directs the plaint to be returned alongwith relevant applications and documents, to be presented to the competent Court be substituted directing the Commercial Court to transfer the suit to the Civil Judge, Senior Division, Aurangabad.

2] The impugned order reveals that the suit was filed in the Court of the Civil Judge, Senior Division, Aurangabad, who being of the *prima facie* opinion that the suit was a Commercial Suit transferred the same to the Commercial Court. The Commercial Court has opined to the contra.

3] We dispose of the appeal modifying the direction issued vide impugned order dated 1.10.2018. The plaint need not be returned. The learned Judge shall transfer the suit to the Court of the Civil Judge, Senior Division, Aurangabad.

(R.G. AVACHAT, J.)

CHIEF JUSTICE