

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1395 OF 2013
IN
SUIT (L) NO. 2655 OF 2012

Inderjeet Singh Amardeep Chadha
@ Supremo

..... Applicant
(Org.Defendant)

IN THE MATTER BETWEEN

Amardeep Singh Sujan Singh Chadha
& Anr.

..... Plaintiffs

VERSUS

Inderjeet Singh Amardeep Chadha
@ Supremo

..... Defendant

ALONGWITH
CHAMBER SUMMONS NO. 184 OF 2019
IN
SUIT NO. 423 OF 2014

Davinder Kaur Chadha

..... Applicant
(Org.Plt.No.2)

IN THE MATTER BEWTEEN

Amardeep Singh Sujan Singh Chadha
& Anr.

..... Plaintiffs

VERSUS

Inderjeet Singh Amardeep Chadha
@ Supremo

..... Defendant

Ms.Veena Thadani for the Plaintiffs and for the Applicant in Chamber Summons No. 184 of 2019.

Mr.Omprakash Pandey, a/w. Ms.Anita Vasani, i/b. M/s.Pandey & Co. for the Applicant in Notice of Motion No.1395 of 2013 and for Defendant in Chamber Summons No.184 of 2019.

CORAM : R.D. DHANUKA, J.

DATE : 5th FEBRUARY, 2019

P.C.

The applicant (original defendant) has filed this notice of motion *inter alia* praying for deciding the preliminary issue under section 9A of the Code of Civil Procedure, 1908 that the territorial jurisdiction of this court in respect of the properties described at item nos. 2 to 5 shown in the schedule Ex.A to the plaint and for other reliefs.

2. It is not in dispute that the other reliefs sought in the notice of motion are arising out of and in furtherance of prayer clause (a) of the notice of motion.

3. Mr.Pandey, learned counsel appearing for the applicant vehemently argued before this court that the properties described at serial nos. 2 to 5 to the schedule annexed at Ex.A to the plaint are admittedly situated outside the territorial jurisdiction of this court. No leave under clause XII of the Letters Patent has been obtained by the plaintiffs.

4. Mrs.Thadani, learned counsel appearing for the plaintiffs does not dispute that the properties described at serial nos. 2 to 5 are situated outside the territorial jurisdiction of this court. It is submitted by the learned counsel that as a matter of fact, her client has filed a separate chamber summons bearing no.184 of 2019 *inter alia* praying for leave to amend the plaintiff in the Suit No.423 of 2014 and more particularly

by seeking deletion of the immoveable properties described at serial nos. 2 to 5 of schedule annexed to the Ex.A to the plaint on the ground that those properties are situated outside Greater Bombay.

5. Since it is common ground that the properties at serial nos. 2 to 5 are situated outside Greater Bombay and are beyond the territorial jurisdiction of this court and the original plaintiff not having obtained leave under Clause XII of the Letters Patent, this court thus has no territorial jurisdiction to decide the dispute in respect of those properties described at item nos. 2 to 5 to schedule Ex.A to the plaint.

6. It is not the dispute that the property described at serial no.1 is within the territorial jurisdiction of this court and this Hon'ble Court has jurisdiction to entertain, try and adjudicate upon the prayer in respect of the property described at serial no.1 to the schedule Ex.A to the plaint. Notice of motion is accordingly made absolute in terms of prayer clause (a).

7. Insofar as other prayers in the notice of motion are concerned, since this court has granted prayer clause (a) in favour of the applicant, Mr.Pandey, learned counsel appearing for the applicant submits that other prayers prayed in the notice of motion do not survive and are accordingly not pressed. Statement is accepted.

8. In view of this court holding that this court has no territorial jurisdiction described at serial nos. 2 to 5 of Schedule Ex.A to the plaint, Chamber Summons No.184 of 2019 *inter alia* praying for

amendment of the plaint and particularly to delete the properties at serial nos. 2 to 5 in Schedule of Ex.A would not survive and is accordingly disposed of.

9. It is made clear that this court has not expressed any views on merits in respect of those four properties which are described at serial nos. 2 to 5.

10. If any separate proceedings are filed by the plaintiff in respect of those four properties, appropriate court can deal with the reliefs in respect of those properties on its own merits. No order as to costs.

[R.D. DHANUKA, J.]