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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 04th SEPTEMBER, 2019

+ FAO 484/2017

**HARJEET KAUR CHOUDHARY
(SENIOR CITIZEN)**

.... Appellant

Through: Mr. Gurbaksh Singh, Mr. Avtar
Singh, Mr. Jarnail Singh and Mr. Dushyant
Kumar, Advocates

versus

DASHMESH ARTS (INDIA) LTD & ORS Respondents

Through: Mr. Tanmaya Mehta, Mr. Anurag
Sahay and Mr. Siddhant Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The appellant (hereinafter referred to as “the plaintiff”) had instituted a civil suit (no.CS-8475/16) on 24.01.2013 against the respondents (hereinafter referred to as “the defendants”) seeking a decree for recovery of money in the sum of Rs.19,99,500/- with interest *pendente lite* and future claiming the said amount of money to be due on account of a loan of Rs.14,26,000/- that had been earlier advanced by a bank transfer. The suit was contested by the defendants by written statement taking various defences. It was put to trial on the basis of the issues that were framed, one of the issues (issue no.3) being to address the objection of the defendants as to territorial

jurisdiction of the court of the District Judge before whom the suit had been presented. The Additional District Judge to whom the case had been allocated at the conclusion, after recording the evidence of both the sides, by his judgment dated 31.10.2017 rendered decision only on the third issue concerning the objection to the territorial jurisdiction upholding the plea of the defendants and on that basis declined to return any finding on the other issues, resultantly directing return of the plaint under Order VII Rule 10 of the Code of Civil Procedure, 1908 (CPC).

2. Feeling aggrieved, the plaintiff has come up with the present appeal, her argument being that the trial court has fallen in error, failing to appreciate that the case was properly made out and presented before the District Judge presiding over the South and South-East district (at that stage a common district) at Saket Courts Complex, in view of the provision contained in Section 20 (c) CPC, reference to Section 20(a) CPC being incorrect.

3. It is not disputed that the first defendant is a company having its registered office in the area of Pahar Ganj, New Delhi, which would fall within the jurisdiction of Central civil district of Delhi. The second defendant is also described as a director of the said company, her office address being same as that of the company though she also being an ordinary resident of Gurgaon (in Haryana). Similar is the position of the third defendant, the other two defendants being residents of different parts of Delhi, admittedly areas not falling within the jurisdiction of South and South-East civil district (as existed at the

time of presentation of the suit). It is also not disputed that the plaintiff is a resident of Defence Colony, New Delhi, the first defendant having a bank account operational in the area of Lajpat Nagar, New Delhi, both of which fall within the territorial jurisdiction of South-East civil district of Delhi the case having been decided by an Additional District Judge of South-East civil district.

4. A perusal of the impugned judgment indicates that the trial court felt persuaded by the objection of the defendants on the lack of territorial jurisdiction in light of observations in a decision of a learned single judge of this court reported as *Unimers India Ltd. Vs. IFCI Ltd. and Ors.*, 2012 (129) DRJ 608.

5. The plaintiff in appeal, however, points out that there are clear averments in the plaint on which evidence was also led that she was approached by the defendants for such money to be given to her at her residence in Defence Colony, New Delhi and further that she had passed on the money by a banking instrument against which credit was received by the first defendant in its account held in Punjab and Maharashtra Cooperative Bank, Amar Colony, Lajpat Nagar, New Delhi. Both the said events undoubtedly occurred within the territorial jurisdiction of the trial court which has decided to return the plaint through the impugned order.

6. The learned counsel for the defendants (respondents) made some effort to justify the decision of the learned trial court placing reliance on *Unimers India Ltd.* (supra). But then, there was no answer when the court asked him as to whether the mode, manner and place

of receipt of money in a recovery suit was a factor which was only incidentally related to the case or a prime one on which the claim in the suit is founded.

7. Given the fact that there seems to be no contest to the evidence that the money was credited in the account of the first defendant in its account in a branch of a bank located within the territorial jurisdiction of the trial court, reliance on *Unimers India Ltd.* (supra) was wholly erroneous. There is no doubt in the given facts and circumstances that part of the cause of action within the meaning of Section 20(c) CPC had arisen within the jurisdiction of the court where the suit was presented and by which it was decided by the impugned judgment.

8. On the foregoing facts and in the circumstances, the view taken by the Additional District Judge on the third issue cannot be upheld. The same is set aside. The issue is answered in favour of the plaintiff.

9. As a natural corollary to the above decision, the impugned judgment will have to be set aside and the proceedings in the civil suit revived. Ordered accordingly. Consequently, the civil suit of the appellant stands revived on the file of the trial court which shall take it up for further proceedings in accordance with law for appropriate decision on the other issues on the basis of evidence which has already been led.

10. The parties are directed to appear before the trial court on 10.10.2019.

11. The appeal is disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 04, 2019

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