

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Civil Revision Application No. 19 of 2020

Georai Municipal Council Vs. M/s Core Projects Engineers and Consultants
P.Ltd.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.D. Bhuihar & Mr. Abhishek P. Bhuihar, Adv. for the petitioner

CORAM : MANISH PITALE, J.

DATED : MARCH 04, 2020

By this civil revision application, the original defendant has challenged order dated 15/01/2020, passed by the Court of 2nd Jt. Civil Judge (Senior Division), Nagpur, whereby an application filed by the revision applicants under Order 7 Rule 11 of the Code of Civil Procedure, has been rejected.

2. The respondent (original plaintiff) has filed a suit for recovery of specific amount from the petitioner claiming that certain amount is due to the respondent for works done in pursuance of agreement dated 23/12/2015. The terms and conditions of the agreement have been stated in the plaint and it is claimed that since part of the work was executed at Amravati, the Court at Amravati did have jurisdiction to entertain the suit.

3. By the aforesaid application filed by the revision applicants, it was claimed that the Court at Amravati did not have territorial jurisdiction and it was only the Court at Georai, where the respondent could have filed the aforesaid suit. It was claimed that the entire cause of action had arisen at Georai and, therefore, the plaint deserved to be rejected. Such application filed on behalf of the applicant was opposed by the respondent by relying upon the pleadings in the plaint and claims made on behalf of the respondent that since part of cause of action did arise at Amravati, therefore, the Court below had jurisdiction to entertain the suit.

4. The Court below has accepted the contentions raised on behalf of the respondent and rejected the application filed by the revision applicant.

5. This Court does not find any error in the impugned order passed by the Court below, because presently the Court was considering an application under Order 7 Rule 11 of the Code of Civil Procedure to examine whether the plaint could be rejected at the threshold. It is in this context that the Court below has made observations and rejected the application filed by the applicant.

6. Therefore, this Court finds no error in the impugned order and the civil revision application is

dismissed.

7. At the same time, the concern of the revision applicant needs to be addressed that it is entitled to raise a question of jurisdiction, being a mixed question of facts and law. The said contention raised on behalf of the revision applicant cannot be found fault with and the anxiety expressed on behalf of the revision applicant can be redressed by observing that the impugned order will not come in the way of the revision applicant in raising an issue of jurisdiction before the Court below, which being a mixed question of law and facts, may be decided by the Court below along with other issues after giving full opportunity to the rival parties to lead evidence.

8. The civil revision application is disposed of.

JUDGE