

CR-2581 of 2020 (O&M)

Date of Decision: 12.01.2021.

M/s Rana Sugar Ltd.

...Petitioner

V/S

M/s Basantsar Bottlers Industrial Growth Centre &Anr.

...Respondents

CORAM: HON'BLE MR JUSTICE ARUN MONGA

Present : Mr. Arun Sharma, Advocate
For the petitioner.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. Plaintiff-petitioner herein is aggrieved by an order dated 30.08.2019 whereby suit for recovery for an amount of Rs.7,28,705/- has been dismissed on the ground of territorial jurisdiction. The defendants-respondents were proceeded ex-parte in the suit and after adducing of ex-parte evidence by the plaintiff, the order impugned herein was passed by the trial Court.

2. The operative part of the impugned order reads as below:-

“14. In view of above discussion, it is concluded that neither the defendant resides in the Chandigarh nor the cause of action wholly or in part has accrued within the territorial jurisdiction of this Court. Therefore, the present Civil Court does not have the jurisdiction to entertain and decide the present suit. Consequently, it is held that this suit is not maintainable before this Court due to lack of jurisdiction. Hence, the plaintiff is not entitled for the relief of recovery claimed by him before this Court.

15. *In view of above discussion, it is concluded that the plaintiff has been failed to prove its case. Hence, the plaintiff is not entitled for the relief claimed by him. Consequently, the suit filed by the plaintiff fails and it is hereby dismissed with costs. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance."*

3. Having heard learned counsel for the petitioner, I am in agreement with his submission that, at worst, even if the trial Court at Chandigarh lacked the territorial jurisdiction, plaint ought to have been returned to the plaintiff instead of dismissal of the entire suit, though he also argues that trial Court had requisite jurisdiction.

4. Be that as it may, learned counsel for the petitioner submits that he would be satisfied if, instead of dismissal of the suit, the impugned order passed by the trial Court is modified to the extent that the plaint of the petitioner is ordered to be returned, so as to enable the petitioner to present the same before the appropriate Court having territorial jurisdiction as per trial court view.

5. It is evident from the impugned order that respondents-defendants did not opt to contest the suit and were proceeded ex-parte and in the premise, there is no necessity to issue notice of the present petition to them.

6. In the premise, present petition is allowed. Impugned order dated 30.08.2019 is set aside. It is directed that instead of dismissal of the suit, the plaint be ordered to be returned to the petitioner with liberty to present the same before the Court having territorial jurisdiction for disposal in accordance with law.

7. Disposed of in above terms.

January 12, 2021
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No