

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-2753-2021(O&M)

Date of decision:-12.11.2021

Jayant K. Furnishers and others

...Petitioners

Versus

JSL Lifestyle Ltd., Gurugram

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Dr.Anand K. Bishnoi, Advocate
for the petitioners.

of defendants the plaintiff had supplied and installed stainless steel structures at the site of defendant No.1 and had raised various invoices from time to time; however, the defendants did not clear the dues of plaintiff despite demands, as such the plaintiff had filed the suit for recovery in the Court of Civil Judge(Sr.Divn.), Gurugram. With regard to jurisdiction of Civil Court at Gurugram, the assertions have been made in para No.14 of the following effect:

14. That the cause of action has accrued in Gurgaon, as the negotiations were held in Gurgaon and also the mutual agreement was arrived at in Gurgaon between the parties. The on-account payments were also received in Gurgaon and the Plaintiff has their office in Gurgaon and within the jurisdiction of this Hon'ble Court. The invoices raised by the plaintiff from time to time provide for the jurisdiction of the Courts in Gurgaon in case of any dispute. As such, this Hon'ble Court has jurisdiction to try the present suit.

3. On getting notice, the defendants appeared and filed an application under Order VII Rule 11 read with Section 151 CPC for rejection of the plaint stating that the Court at Gurugram lacks territorial jurisdiction to entertain and try the suit because as per own admission of the plaintiff none of the defendants have any place of business at Gurugram and they do not work for gain at that place; further stainless steel structure, the alleged subject matter of the suit was not installed within jurisdiction of the Court at Gurugram; even the invoices pertain to Noida address and there is nothing to show that the items were either delivered or installed within jurisdiction of the Court at Gurugram, rather

it was at Mumbai.

4. That application was opposed on behalf of the plaintiff. The Court of Civil Judge (Jr.Divn.) had dismissed the application vide order dated 22.10.2021 observing that applicants had just raised issue of territorial jurisdiction without mentioning anything which would show that the suit is barred by any law and further dispute with regard to territorial jurisdiction is a mixed question of law and facts and it can only be decided after taking appropriate evidence for which an issue can be framed. However, the plaint cannot be rejected for lack of territorial jurisdiction at this stage. This order left defendants aggrieved and they have filed the present writ petition.

5. I have heard learned counsel for the revisionist/defendants besides going through the record and I do not see any reason to disagree with the trial Court with regard to observations.

6. Considering the facts and circumstances of the case, of course some evidence may be required to determine as to whether the Civil Court at Gurugram had got territorial jurisdiction or not and at this stage it would not be proper and appropriate to reject the plaint for want of territorial jurisdiction. Furthermore, after filing of written statement by defendants and replication, if any by the plaintiff while framing of issues, an issue with regard to territorial jurisdiction of the Court can be framed and if the trial Court thinks proper and appropriate such issue can be taken as a preliminary issue. Furthermore, if the Court finds that it does not have territorial jurisdiction to entertain and try the suit that would not result in rejection of the plaint under Order VII Rule 11 CPC but return of the

plaint under Order VII Rule 10 CPC for the purpose of presenting it to the Court having jurisdiction in the matter.

7. As regards the authorities i.e. **M/s Jagdamba Engineering Works through its Prop./Partner Sh.Gulab Singh and another Versus M/s N.S. Enterprises through its Prop. Anil Goyal** passed by this Court in CR-6489-2015, **Haryana State Pharmacy Council, Chandigarh through its Registrar Versus Satish Kumar** passed by this Court in CR No.4783-2005, **Gujarat Insecticides Ltd. Versus M/s Jainsons Minerals and anr.** passed by Delhi High Court in CS(OS) No.89 of 1999, **Begum Sabiha Sultan Versus Nawab Mohd. Mansur Ali Khan & Ors.** passed by the Apex Court in Civil Appeal No.1921 of 2007 arising out of SLP(C) No.4586 of 2006, **M/s Hanil Era Textiles Ltd. Versus M/s Puromatic Filters (P) Ltd.** passed by the Apex Court in Civil Appeal No.2490 of 2004 arising out of SLP(C) No.5552 of 2002 and **M/s Patel Roadways Ltd., Bombay Versus Prasad Trading Company** passed by Apex Court in Civil Appeal No.3050 of 1991 referred to by learned counsel for the revisionists, those do