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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION 33 OF 2021

1. M/s. V.G. Engineers Pvt. Ltd. & Anr. ... Petitioners.

V/s.

M/s. Metallurgical Products India (P)
Ltd., -through authorized signatory
- Mr. Dinesh Kumar. ... Respondent.

Mr. Prasad Sarvankar, Advocate for the Petitioners.
Mr. Ashok Garje, Advocate i/by Ms. Pranjali Bhandari for
Respondent.

CORAM : ROHIT B.DEO, J.

DATE : JULY 29, 2022

PC :

1. The petitioner is the defendant in Special Civil Suit 500 of 2017 which is instituted by the respondent-plaintiff for recovery of Rs. 21,10,000/- (Rs. Twenty-one lakhs and ten thousand only), which was the advance payment made to the defendant against the contract for erection of the plant and damages and compensation of Rs. 8,90,000/- (Rs. Eight lakhs and ninety thousands only).

2. The plaintiff avers in paragraph 10 of the plaint that the industrial plant was to be erected by the defendant at Taloja, Navi Mumbai, which the defendant failed to do. It is further averred that the terms of the contract were negotiated and settled at the registered office of the plaintiff at Taloja.

3. The defendant preferred an application under Order 7 Rule 11 of Code of Civil Procedure, 1908 (Code), contending that the Court at Taloja did not have jurisdiction to entertain and try the suit and that suit ought to have been instituted in Court at Baroda.

4. The learned trial Judge has held that the objection to the territorial jurisdiction can be determined only on the basis of the evidence on record.

5. I do not see any error in the view taken by the learned Judge.

6. Prima facie, the plaint averments will have to be taken at its face value. The submission of the learned counsel for the defendant that the invoices issued by the defendant to the plaintiff contains “exclusive jurisdiction clause can be addressed by the trial court only after the evidence is adduced”.

7. In any event the application under Order 7 Rule 11 of the Code is clearly misconceived. If at all, the appropriate provision would have been Order 7 Rule 10. Be that as it may, since the learned trial Judge has left the contentions open, no further observation is necessary.

8. Civil Revision Application is dismissed.

(ROHIT B. DEO, J.)

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