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

WRIT PETITION 203 OF 2011

The Kisan Sahakari Chinni Mills Ltd. ... Petitioner
Versus
Airrocheme Engineering Company ... Respondent

Mr. P. D. Dalvi for the Petitioner.
None for the Respondent.

CORAM: ROHIT B. DEO, J.
DATE : 16th JUNE, 2022

P.C. :-

. None appears for the respondent.

2. The petitioner is defendant in Regular Civil Suit 775 of 2009 which is brought for recovery of balance consideration/cost of goods supplied.

3. The defendant preferred an application purportedly invoking Order VII Rule 10 of the Civil Procedure Code, 1908 (for short 'Code') seeking return of plaint to the appropriate Court on the premise that no part of cause of action arose within the territorial jurisdiction of the Court at Kolhapur. The defendant contended that the factory is situated at Mahmudabad, Dist. Sitapur, Uttar Pradesh, supply of goods was at the said site and the agreement itself was executed within the jurisdiction of the Court in the State of Uttar Pradesh.

4. The averments in the plaint are that the purchase order which was issued by the defendant was accepted by the plaintiff at Kolhapur, and that is why the contract concluded within the jurisdiction of Kolhapur.

5. The learned Trial Judge was pleased to accept the submission of the plaintiff that the contract concluded at Kolhapur and on such premise, rejected the application.

6. In my considered view, this petition can be disposed of with certain modifications. While no fault can be found with the *prima-facie* finding recorded by the learned Trial Judge, the issue ought to have been kept open for the final determination after the parties adduce their respective evidence.

7. While, I am not interfering with the order impugned, it is clarified that the issue of territorial jurisdiction is kept open and shall be revisited by the learned Trial Judge at the stage of final hearing, after the evidence is adduced.

8. Subject to the observations supra, the petition is disposed of.

[ROHIT B. DEO, J.]