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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 09.12.2022

+ FAO (COMM) 153/2022 & CM APPL.44790-91/2022

SPS ENERPROS (INDIA) PRIVATE LIMITED Appellant

versus

CHETAK ENTERPRISES LIMITED & ORS. Respondents

Advocates who appeared in this case:

For the Appellant: Ms. Binisa Mohanty, Advocate.

For the Respondent: Mr. Santosh Kumar, Mr. Daksh Arora and Mr. Prakhar
Prakash, Advocates for R-3.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant/Plaintiff impugns order dated 08.07.2022 whereby the plaint of the suit has been returned for want of territorial jurisdiction to be presented before the proper court.

2. Appellant/Plaintiff had filed the subject suit for recovery contending that certain work order was issued by Defendant no.1 to the appellant for rehabilitation and upgradation of NH-66 (erstwhile NH-17) from KM 205/400 to KM 241/300 (Parshuram Ghat-Arawali

Section) to Four Lane with paved shoulder in the State of Maharashtra under NHDP-IV on Hybrid Annuity Mode.

3. The contention of the Appellant/Plaintiff was that there are two invoices which remained unpaid and accordingly, the subject suit has been filed.

4. In the impugned order 08.07.2022, the Trial Court has noticed that the registered address of Defendant no.1 is of Rajasthan, and the registered address of Defendant no.2 is of Thane, Maharashtra. The Branch Office of the plaintiff is at Pune, however, the registered office is at New Delhi.

5. The contention of the Appellant/Plaintiff before the Trial Court was that, though the work order mentions that exclusive jurisdiction would be at courts of Mumbai, no cause of action had arisen in Mumbai and none of the parties were situated in Mumbai. Accordingly, courts at Mumbai have no jurisdiction.

6. Trial Court has noticed that no part of cause of action has arisen within the territorial jurisdiction of this Court. The only reason why the suit has been filed in Delhi is because the registered office of the plaintiff is in Delhi.

7. Being a civil suit for simplicitor recovery, the provisions of Sections 15 to 20 CPC would be applicable and the suit is to be instituted where the Defendants or each of the Defendants reside or worked for gain or cause of action, wholly or in part, arises.

8. In the present case, no part of causes of action arises in Delhi. The work order dated 27.10.2018 mentions the correspondence address of Mumbai, however, the work order in paragraph-27 provides the date and the place of delivery of notices and communication; if to the employer: at Ratnagiri, Maharashtra, and, if to the contractor, at Assam. The work order is addressed to the Appellant/Plaintiff at their address at Pimpri, Chinchwad, Pune. The work order has neither been issued from Delhi nor is addressed to the registered office of the Plaintiff at Delhi. The work that had to be executed was also not within the territorial jurisdiction of this Court. Consequently, no part of cause of action has arisen within the territorial jurisdiction of the courts at Delhi.

9. Learned counsel for the Appellant/Plaintiff submits that respondent no.3 (Defendant no.3) i.e., National Highways Authority of India has office in Delhi, and as such since one of the Defendants is in Delhi, the suit would still lie in Delhi.

10. However, we are unable to accept the contention of learned counsel for the Appellant/Plaintiff for the reason that in the plaint itself in paragraph-3, the Plaintiff has stated that Defendant no.3 is a mere performa party and Plaintiff has no claim against him. The work order has been issued by Respondent no.1 and work had to be executed outside Delhi. Accordingly, the said contention does not hold any merit, and is, accordingly, rejected.

11. In view of the above, we find no infirmity in the impugned

Neutral Citation Number : 2022/DHC/005553

order dated 08.07.2022 of the Trial Court holding that the courts at Delhi do not have territorial jurisdiction.

12. In view of the above, we find no merit in the appeal. The appeal is, accordingly, dismissed.

SANJEEV SACHDEVA, J

MANMEET PRITAM SINGH ARORA, J

DECEMBER 9, 2022/ib

