

December 15, 2023
Sl. No.4
Court No.19
s.biswas

CO 1200 of 2022

Ram Singh Bajwa

vs.

Nicco Engineering Services Limited and others

Mr. Tanmoy Mukherjee

Mr. Manaranjan Jana

Ms. Mitali Jana

Mr. Souvik Das

Mr. Rudranil Das

... for the petitioner

Despite four successful attempts of service upon the plaintiff/opposite party no.1, as reflected in the affidavits of service, the plaintiff/opposite party has chosen to stay away from the proceeding. Thus, this court has no other option, but to take up the matter for hearing. The opposite party nos.2 to 6 are the supporting defendants who have also been served.

This court finds that although an application was filed with the nomenclature of a petition under Order 7 Rule 11 of the Code of Civil Procedure, in effect, the petitioner challenged the territorial jurisdiction of the learned Civil Judge (Senior Division), 2nd Court, Barasat to entertain Title Suit No.140 of 2021. It was urged in the said application that the cause of action arose outside Kolkata. The defendant no.1 was an erstwhile employee of the plaintiff who was posted in Delhi. The business which the defendant no.1 was allegedly carrying on with the defendant nos.2 to 6, and in respect of which the suit had been filed, was also at Delhi.

Only because the appointment letter was issued to the defendant no.1 from Kolkata, the jurisdiction of the court of Civil Court at Barasat could not be invoked.

This court is of the view that the learned judge should treat the application under Order 7 Rule 11 of the Code as one under Order 7 Rule 10 of the Code and dispose of the same on the question of territorial jurisdiction, upon allowing the parties to contest the application. The learned court shall consider the matter in accordance with the settled principles of law.

This court has not gone into the merits of the case of the petitioner. The order impugned is set aside.

It is needless to mention that the plaintiff shall be given an opportunity to file an additional objection and thereafter the matter should be heard and disposed of within a period of three months from the date of communication of this order.

The petitioner is directed to file a put up petition along with server copy of this order, upon service of the same to the plaintiff/opposite party, so that the matter can be disposed of, as per direction of this court.

The revisional application is thus disposed of.

There shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)