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

CIVIL REVISION APPLICATION NO.60 OF 2023

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Babu Miya Dairy Products, through
proprietor Mohammad Siddique Ali ... Applicant

V/s.

A.B. Ghatge, through proprietor
Mr. Arun B. Ghatge (deceased)
through Smt. Swati Arun Ghatge ... Respondent

Mr. Anilkumar K. Patil with Mr. Rohan D. Kaiche for the
applicant.

Mr. Prajakt M. Arjunwadkar for respondent Nos.1A to
1C.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 6, 2023

PC.:

1. The applicant is defendant who filed an application under Order 7 Rules 10 and 11(d) of the Code of Civil Procedure, 1908 raising objection as to territorial jurisdiction. Special Civil Suit No.24 of 2011 filed by the respondent/plaintiff for recovery of amount. According to the applicant, the Trial Court had no territorial jurisdiction to decide the suit.

2. The issue of territorial jurisdiction is a mixed question of law and fact which cannot be decided when there are no averments in the plaint. Therefore, it will be open for the petitioner to raise such

issue during trial.

3. By granting such liberty, the civil revision application is dismissed. No costs.

(AMIT BORKAR, J.)