

THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

142

CR-2638-2022 (O&M)
Date of Decision:08.11.2023

CENTRAL BANK OF INDIA AND ANRPETITIONERS

VS

AMIT MADANRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Arpit Chawla, Advocate
for the petitioners.

SANJAY VASHISTH J. (ORAL)

CM-16879-CII-2022

This application has been filed by the petitioner under Section 151 CPC for placing on record Annexures P-6 to P-17 and for exemption from filing original /certified/true typed copies of said Annexures.

For the reasons mentioned in the application, the same is allowed and accompanied record Annexures P-6 to P-17, are taken on record.

Main case

1. Present revision petition has been filed by the defendant(s)-Central Bank of India by challenging the order dated 09.03.2020, whereby the Court of learned Civil Judge (Junior Division) Hansi, District Hisar (trial Court) has dismissed the application under Order VII Rule 11 CPC.
2. Learned counsel for the petitioner submits that several grounds were taken in the application but all have been rejected. Learned counsel points out that he is not going to press any other ground in specific except one i.e. territorial jurisdiction, while arguing before this Court. Learned counsel further points out that in the application filed by defendant (petitioner herein) under

1 “That as per plaint of the plaintiff having the weight for rejection of suit on the following grounds:

(a) XXXXXXXXX

(b) XXXXXXXXX

(c) XXXXXXXXX

(d) That Hon’ble Court has no territorial jurisdiction to try and decide the present suit.

(e) XXXXXXXXX

(f) XXXXXXXXX

3. To answer the said objection observation has been given in paragraph No.10 of the impugned order, which is reproduced as below:-

“Further, another ground which has been taken that the civil court has no jurisdiction to try the present suit. However, the applicants did not mention any fact that how the jurisdiction of civil court has been barred, because the civil suit has been filed for declaration to declare the letter bearing No.BO:KARNAL:2018-19 dated 14.06.2019 illegal, null and void. Hence, the suit for declaration is clearly triable of the civil court as provided under Section 34 of the Specific Relief Act, 1963. Moreover, the question of jurisdiction is mixed question of facts and law which is to be taken into consideration after taking the evidence from both the parties.”

4. Learned counsel refers to the pleading raised by the plaintiff (respondent herein) in para 11 of his plaint.

11. *“That the plaintiff gave the auction from Narnaund and all the Email conversation was done from Narnaund and the last mail also received at Narnaund and the office of defendant bank is also at Hansi, which is within the territorial jurisdiction of the Hon’ble Court; hence the Hon’ble Court has got the jurisdiction to try and entertain the present suit.”*

5. Learned counsel for the appellant submits that even as per the averments taken in the plaint territorial jurisdiction of the Hansi Court is not made out. He also submits that although objections were also taken before the Courts below while arguing the application under Order VII Rule 11 CPC but there is no specific finding on the said averments. Although he admits that in his application details in regard to the territorial jurisdiction have not been mentioned.

6. Taking note of this submissions, I do not find any reason to interfere and to set aside it as a whole. However, taking note of the fact that the petitioner-defendant is inclined to take this objection again before the Court below by way of moving an appropriate application in specific, the impugned order dated 09.03.2020, is modified to the extent that same would not be construed as finding in regard to the territorial jurisdiction which has been raised in the application by the petitioner-defendant.

7. Accordingly impugned order dated 09.03.2020 is modified in case petitioner-defendant moves an application with complete details, supported with an affidavit and the relevant documents under relevant provision of law, on the issue of territorial jurisdiction, trial Court would decide the issue of territorial jurisdiction again afresh without getting influenced by any observation made in the earlier order or any observation made by this Court.

8. It is expected that such decision would be based upon only on the basis of written objection and the material to be adduced by the petitioner-defendant before the Court. Petitioner would file said application as referred to above within 10 days from today and same be decided within a period of 03 weeks from the date of filing such application.

9. Accordingly, the present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

08.11.2023

pry

Whether speaking/reasoned: Yes
Whether reportable: Yes