

20.08.2024
Item No.14, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2821 of 2024

**Mrs. Premlata Jhawar
-Vs-
Berger Paints India Limited**

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee.
.....for the petitioner.

Mr. Anirban Banerjee,
Mr. Soumik Chakraborty,
Mr. Abhishek Banerjee.
.....for the opposite party.

The instant application under Article 227 of the Constitution of India is at the instance of the defendant in a money suit and is directed against order dated June 11, 2024 passed by the learned Judge, 5th Bench, City Civil Court at Calcutta in the said suit being *Money Suit No. 130 of 2015*.

The learned Trial Judge by the order impugned has disposed of an application under Order VII Rule 10 of the Code of Civil Procedure filed by the petitioner holding that the subject godown though admittedly situated at Kanpur, Uttar Pradesh, but the *Memorandum of Understanding* dated July 08, 2014 since was entered into by and between the parties at Kolkata, at this stage it cannot be ascertained whether the entire cause of action of the suit arose in Kanpur or otherwise and has left the said issue to be decided at the time of trial on evidence.

Mr. Partha Pratim Ray, learned advocate for the petitioner submits that the plaint itself would

disclose that not only the subject property is situated beyond the territorial jurisdiction of the Court below, but also no part of the cause of action has arisen within such jurisdiction.

Mr Arindam Banerjee, learned advocate for the opposite party on the other hand submits that the claim of the plaintiff is based on several agreements between the parties which would justify filing of the connected suit before the learned Trial Judge; he prays opportunity to produce those documents before the learned Trial Judge for consideration.

The issue regarding territorial jurisdiction of the learned Trial Judge requires a fresh consideration; to facilitate such exercise, the order impugned is set aside.

The learned Trial Judge is requested to decide the application under Order VII Rule 10 of the Code of Civil Procedure afresh after giving opportunity to the parties to place the relevant materials on record.

C.O. 2821 of 2024 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)