



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Sr. No.111**

**TA-563-2023**

**Date of Decision: 22.10.2024**

**M/S SHUBHAM PHARMACEUTICALS AND DISTRIBUTOR AND  
ANOTHER**

**....Applicants**

**Versus**

**M/S BIOSORTIA HEALTHCARE PRIVATE LIMITED**

**....Respondent**

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present:- Mr. Sourabh Singla, Advocate  
for the applicants.

Mr. Arun Luthra, Advocate  
for the respondent.

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**ARCHANA PURI, J. (Oral)**

The applicants (defendants before learned Trial Court) have filed the present application for seeking transfer of the civil suit under Order 37 CPC, titled '*M/s Biosortia Healthcare Vs. M/s Shubham Pharmaceuticals*', which is pending in the Court of learned Civil Judge (Senior Division), Gohana, District Sonapat and they seek transfer of the same to the Court of competent jurisdiction at Chandigarh.

In pursuance of the notice issued, respondent made appearance through counsel and filed reply.

Learned counsel for the parties heard.

At the very outset, the counsel for the applicants has submitted that there was business transaction between applicant No.1-Firm and the respondent-Firm and this business transaction continued till 10.12.2019, when it was stopped and the accounts were settled between them. Upon



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this, No Due Certificate dated 10.12.2019, was issued to applicant No.1, thereby stating that applicant No.1 has cleared all the dues with the respondent-Firm. Thereupon, the suit for recovery has been filed by the respondent in the Courts at Gohana, thereby seeking recovery to the extent of Rs.1,11,000/-, only with the purpose to harass the applicants. It is submitted that when 'No Due Certificate' has been issued and thereupon, no further business transaction/communication has taken place between both the parties to the lis, therefore, the question for seeking recovery by way of filing suit under Order 37 CPC, does not arise. In these circumstances, it is submitted that it is difficult for the applicants to commute a distance of about 200 kilometres, to defend this frivolous litigation.

However, the counsel for the respondent has resisted the claim of the applicants. While making reference to the reply filed, the counsel for the respondent has submitted that erroneously, the 'No Due Certificate' was issued, at first instance, on account of the amount qua the cheque, issued by Shivam Drug Agencies, Jagadhri, having deposited in the account of M/s Shubham Pharamaceuticals and Distributor, Chandigarh. However, it is submitted that on coming to know about this mistake, the applicants had entered into a settlement with the respondent-Firm, wherein, it was admitted that the issuance of 'No Due Certificate' was a clerical mistake. Copy of the said settlement is Annexure R-1. Also, it is submitted that in the Letter of Intent, copy whereof is Annexure R-2, there is a specific mention made about the agreement reached between the parties that any dispute having arisen in future, shall be subject to the exclusive jurisdiction of a Court in the city of Sonapat. Also, it is submitted that both these documents have been suppressed by the applicants in the application for seeking transfer of



the civil suit.

On query by the Court, it is submitted by the counsel for the applicants that Annexure R-1, settlement, is a forged document. With regard to the Letter of Intent, Annexure R-2, it is submitted by the counsel for the applicants that this document was executed. In view of the same, as per the agreement between the parties to the lis, the jurisdiction in the eventuality of any dispute arising between the parties, was of the Court in the city of Sonapat.

Such being the fact situation, the distance, as submitted by the counsel for the applicants, to be causing inconvenience to the applicants, cannot be solely taken into consideration, more particularly, keeping in view the recitals of Annexure R-2 and also keeping in view the settlement reached between the parties, the fact whereof was not disclosed in the transfer application.

Hence, no case is made out for allowing the application. As such, the same is hereby dismissed.

22.10.2024  
Himanshu

(ARCHANA PURI)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No