



2024-1002-3186



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 16th April, 2024**

+ **C.R.P. 137/2024 & CM APPL. 22273/2024**

M/S INTELLI CARE Petitioner

Through: **Mr. Tushar Mahajan & Mr.
Bhaavan Mahajan, Advs.**

versus

M/S ROOTS MULTICLEAN LTD Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 22274/2024 & CM APPL. 22275/2024 (Exmp.)

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

C.R.P. 137/2024 & CM APPL. 22273/2024 (Stay)

3. The petitioner, who is defendant in a suit for recovery filed by the respondent/plaintiff, assails the impugned order dated 21.03.2024 passed by the learned Civil Judge-01, South East District, Saket Courts, New Delhi¹, whereby his application under Order VII Rule 10 of the Code of Civil Procedure, 1908² was dismissed.
4. No one is present on behalf of the respondent/plaintiff despite sending advance notice.

¹ Trial Court

² CPC



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5. Learned counsel for the petitioner/defendant alluded to the three invoices, which are 'Annexure-P' and has vehemently urged that the petitioner/defendant is based at Faridabad, Haryana, which had placed orders to the respondent/plaintiff- consignor based in Delhi but the consignment was dispatched from the manufacturing unit based to Coimbatore, State of Tamilnadu. Much mileage is sought to be drawn from the fact that invoices sent by the consignor clearly stipulated that the transactions shall be 'subject to the Courts in Coimbatore jurisdiction only'. It would be relevant to extract the reasons given by the learned Trial Court while deciding the aforesaid plea, which read as under:

"6. Before I discuss the merits of the application, it is pertinent to refer to Section 20 of CPC which is reproduced as below :

20. "Other suits to be instituted where defendants reside or cause of action arises: *Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction-*

(a) The defendant or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

(Explanation): A corporation shall be deemed to carry on business at its sole or principal office in (India) or, in respect of any cause of action arising any place where it has also a subordinate office, at such. place. "

7. From bare perusal of Section 20 of CPC, it is clear that in case of recovery of money, the jurisdiction would lie on the basis of the above three clauses only, wherein the explanation to Section 20 provides for the jurisdiction in cases of corporation.



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8. It is settled proposition of law that an objection regarding territorial jurisdiction of a court, raised by way of an application under Order 7 Rule 10 CPC, is to be decided on a demurrer, that is, by accepting all averments made in the plaint to be true. Thus, the examination for the purpose of an application under Order 7 Rule 10 CPC is limited to the averments made in the plaint and the documents filed by the plaintiff. The written statement filed by the defendant cannot be looked into at all. In the case of *RSPL Limited Vs. Mukesh Sharma & Anr (2016) SCC Online De/4285*, Honble High Court of Delhi has held that:-

" 11. It must be stated that it is a settled proposition of law that the objection to territorial jurisdiction in an application under Order 7 Rule 10 CPC is by way of a demurrer. This means that the objection to territorial jurisdiction has to be construed after taking all the averments in the plaint to be correct".

9. Upon conjoint reading of para 7 and 9 of the plaint, it is noted that the plaintiff has averred that the cause of action arose when the defendant placed purchase orders upon the plaintiff at Delhi where the plaintiff is having its branch office. Perusal of the purchase order shows that

the defendant had placed order on its letterhead which was addressed to the plaintiff at its Delhi address i.e. D-9/5, Okhla Industrial Area, Phase-II, New Delhi-110005 which is within the jurisdiction of this Court. Further, the defendant in the present application has also admitted that the purchase orders were placed by it on its letterhead to the plaintiff. Hence, it is apparent that a part of cause of action has arisen within the jurisdiction of this Court."

6. Without further ado, the aforesaid reasons does not suffer from any patent illegality or perversity. It is doubtful if the parties ever agreed to their disputes, if any, being subjected to the exclusive jurisdiction of the Coimbatore. Even otherwise, it is not fathomable that merely because the consignment had been supplied from the manufacturing unit in Coimbatore, that by itself would confer territorial jurisdiction on the Courts in Coimbatore to entertain and adjudicate upon any dispute between the parties.

7. Suffice to state that substantial part of the cause of action has



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arisen in Delhi, whereat even payments for the consignment had been remitted by the petitioner/defendant to the branch office of the plaintiff/respondent at Delhi in the ordinary course of business.

8. In view of the aforesaid discussion, the present revision petition is dismissed.

9. Nothing contained herein shall tantamount to an expression of opinion on the merits of the case.

10. The present revision petition along with the pending application stands disposed of.

DHARMESH SHARMA, J.

APRIL 16, 2024

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