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

+ C.R.P. 321/2023 & CM APPLs. 57402/2023, 57403/2023

SAPPHIRE CORPORATION & ANR.Petitioners

Through: Mr. S. Gowthaman & Mr. Sameer
Aslam, Advocates.

versus

ALSTONE INTERNATIONALRespondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

28.11.2024

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1. The present Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC, 1908"*) has been filed on behalf of the Petitioners/Defendants challenging the Order dated 31.08.2023 *vide* the Application under *Order VII Rule 10* read with *Rule 11 of CPC, 1908* has been dismissed.

2. *It is submitted on behalf of the Petitioners/Defendants* that the entire contract took place in Chennai and the delivery of the goods was also made in Chennai. Therefore, the Court in Delhi has no territorial jurisdiction to entertain the Suit of the Respondent/Plaintiff and the Suit is liable to be returned for want to territorial jurisdiction.

3. In regard to the Application under *Order VII Rule 11 of CPC, 1908*, it is submitted that the Respondent/Plaintiff was also pursuing the same remedy under Section 138 of the Negotiable Instruments Act, 1881 (*hereinafter referred to as 'NI Act, 1881'*). As per the Order dated 24.09.2022 of the learned Metropolitan Magistrate, NI Act, the entire payments have been received and the Complaint filed by the Respondent/Plaintiff has been withdrawn.



4. The record shows that there is nothing due and payable from the Revisionists/Defendants and the Suit is liable to be rejected.

5. **Submissions heard and the record perused.**

6. The first aspect is in regard to the territorial jurisdiction as the Revisionist has asserted that no part of cause of action arose in Delhi. The Invoices reflect that the goods had been supplied at Chennai. Pertinently, it is indicated in the Invoices that the Head Office of the Respondent/Plaintiff was in Delhi. It is also not denied that the alleged security cheque had been presented by the Respondent/Plaintiff in Delhi, wherein it got dishonoured and the Complaint under Section 138 of NI Act, 1881 also got filed in Court at Delhi.

7. From the submissions made, it is not only evident that the payments were being received in Delhi, where the Respondent/Plaintiff had its Head Office, but also, it has been indicated that the Delhi Courts alone would have jurisdiction, in the Invoices.

8. The learned District Judge has rightly observed that even though the Petitioners/Defendants may be claiming that they had never dealt with the Respondent/Plaintiff at its Office in Delhi and the goods have not been supplied in Delhi, but it cannot be overlooked that the payments have been made in Delhi, thereby giving rise to the cause of action in Delhi.

9. The learned District Judge has also rightly held that this Court has the territorial jurisdiction and the rejected the Application under *Order VII Rule 10 of CPC, 1908*.

10. In regard to the Application under *Order VII Rule 11 of CPC, 1908*, essentially the Petitioners/Defendants have relied upon the settlement in the Complaint under Section 138 of NI Act, 1881 that got filed by the



Respondent/Plaintiff in Delhi. It is no doubt that *vide* Order dated 24.09.2022, the Complaint under Section 138 of NI Act, 1881 was withdrawn by the Respondent/Plaintiff. However, it cannot be overlooked that the proceedings under Section 138 of NI Act, 1881 are essentially criminal in nature, while the Suit of the Respondent/Plaintiff is towards the civil liability for recovery of the alleged amount due because of the transactions between the parties. Though the Complaint under Section 138 of NI Act, 1881 may have been settled, but that in itself is not a reflection on there being no amount due to the Respondent/Plaintiff.

11. It is submitted on behalf of the Petitioners/Defendants that the Statements of Account were directed to be produced by the learned Metropolitan Magistrate, NI Act in the proceedings before it, in Complaint under Section 138 of NI Act, 1881 which never got produced by the Plaintiff.

12. Pertinently, the said Complaint specifically averred that the amounts are due from the Petitioners/Defendants. It is the defence of the Petitioners/Defendants that nothing is due and payable to the Respondent/Plaintiff, which can be established only by way of evidence.

13. Therefore, the Application under *Order VII Rule 11 of CPC, 1908* has also been rightly rejected by the learned District Judge.

14. In view of above, there is no merit in the present Revision Petition along with pending Applications is hereby dismissed.

NEENA BANSAL KRISHNA, J

NOVEMBER 28, 2024

S.Sharma