



\$~9

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

+ **C.R.P. 231/2024**

R. S. RAWAT

.....Petitioner

Through: **Mr. Saifuddin Shams, Advocate.**
versus

RIZWAN KHAN

.....Respondent

Through: **Mr. Salman Ali Khan and Mr. Akshay, Advocates.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

%

07.11.2024

CM APPL. 43934/2024 (delay)

1. The Application has been filed on behalf of the Petitioner for condonation of delay of 48 days in filing the accompanying Revision Petition.
2. For the reasons stated in the Application and in the interest of justice, the delay of 48 days in filing the accompanying Revision Petition is condoned. The Application is allowed.
3. The Application is disposed of accordingly.

C.R.P. 231/2024

4. The Revision Petition under Section 115 read with Section 151 of *Code of Civil Procedure* ('CPC' hereinafter) has been filed on behalf of the Revisionist (Defendant) in the Suit against the Order dated 04.03.2024 of learned ADJ, New Delhi, dismissing the Application under Order 7 Rule 11 CPC.
5. *Briefly stated*, the Plaintiff had filed a Suit for Recovery of



Rs.5,11,302/- against the Defendant/Revisionist on the ground that the Plaintiff is an Architect and Interior Designer. The Plaintiff entered into an Agreement with the Defendant for repair construction, renovation and maintenance of his residence at C-103, Second Floor, Jalvayu Vihar, P3, Greater Noida, Uttar Pradesh. According to the Plaintiff, the meeting for settling the terms and conditions of the Agreement, were arrived at his Office at Khirki Extension, Malviya Nagar, New Delhi-110017. The Defendant paid around 75% of the agreed amount for the Contract work while Rs.5,11,302/- is still outstanding against the Defendant.

6. An Application **under Order 7 Rule 11 CPC was filed on behalf of the Revisionist/Defendant** wherein it was averred that no cause of action has arisen in the territorial jurisdiction of this Court and thus, the Suit was liable to be rejected. It was submitted that the house to be renovated, was located in Greater Noida and the Defendant is based in Noida. The Plaintiff had produced GST but the same stands cancelled in 2020. It was denied that any part of the cause of action or any meeting ever took place in Delhi. Therefore, the Suit of the Plaintiff was sought to be rejected for want of territorial jurisdiction.

7. The Application was contested by the Plaintiff, who explained that all the events/transactions and meetings were held at his Office in Khirki Extension, Malviya Nagar, New Delhi and all the transactions between the parties, were done Online in the Account of the Plaintiff, at New Delhi. Reliance has also been made on an Invoice dated 25.07.2002, which has been also raised from the Office of the Plaintiff. It was thus, submitted that part cause of action has arisen in Delhi and the Application under Order 7 Rule 11 CPC, is liable to be rejected.



8. Learned ADJ *vide* impugned Order dated 04.03.2024 noted that for the purpose of deciding the Application under Order 7 Rule 11 CPC, only the contents of the Complaint, are to be looked into. There were specific averments made in the Complaint that the terms of the Agreement was settled at his Office at Khirki Extension, Malviya Nagar, New Delhi and that payments had also been credited in his Account at New Delhi. The learned Trial Court had observed that the objection of jurisdiction as taken by the Defendant, can be adjudicated only after recording of evidence and the Application under Order 7 Rule 11 CPC, was rejected.

9. Aggrieved, the present Revision Petition has been filed.

10. Learned counsel for the Revisionist has re-emphasised that the property to be renovated was located in Greater Noida and no part of the cause of action has arisen in Delhi.

11. **Submissions heard.**

12. It is the specific averment of the Plaintiff in his Complaint that the terms of Settlement were decided at his Office in Khirki Extension, Malviya Nagar, New Delhi and also that the amounts for the work done by him were also credited in his Account at Delhi. It has been rightly observed by the learned ADJ that for the purpose of considering the Application under Order 7 Rule 11 CPC, it is only the averments made in the Complaint, which can be considered. It is the defence of the Defendant that no transaction took place in Delhi, which is a matter of trial and cannot be considered in response to the Application under Order 7 Rule 11 CPC.

13. The Application under Order 7 Rule 11 CPC has been rightly rejected. There is no merit in the Revision Petition, which is hereby dismissed.



14. The Revision Petition is disposed of accordingly.

NEENA BANSAL KRISHNA, J

NOVEMBER 7, 2024/RS