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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4811 OF 2010

Kumud Drugs Private Ltd.

.. Petitioner

Versus

Reena Pharma India Private Ltd.

.. Respondent

Mr. Chetan Patil for petitioner.

CORAM: ALOK ARADHE, CJ.

DATE: 31st JULY, 2025

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ORAL ORDER:

1. In this petition under Article 227 of the Constitution of India, the petitioner/plaintiff has assailed the validity of the order dated 24th February, 2010 passed by the trial Court by which on an application filed by the defendant, the Court has framed the preliminary issue with regard to territorial jurisdiction of the Court. The trial Court has also recoded a finding that it will require the parties to lead evidence.

2. Facts giving rise to filing of the instant writ petition, in nutshell, are that the petitioner/plaintiff has filed Special Civil Suit No. 330 of 2007 seeking recovery of sum of Rs.11,00,000/- (Rupees Eleven Lakh only) against the defendant. The defendant filed the Written Statement. Thereafter, the defendant filed an application for framing a preliminary issue with regard to territorial jurisdiction of the Court. The trial Court vide impugned order dated 24th

February, 2010 has allowed the aforesaid application and has directed the parties to adduce evidence about preliminary issue with regard to territorial jurisdiction of the Court.

3. I have heard the learned counsel for the petitioner and perused the record. Such a course of action is not permissible in law [***See Ramesh B. Desai & Ors. vs. Bipin Vadilal Mehta & Ors., (2006) 5 SCC 638***]. If an issue requires production of evidence in order to defend the suit, the same cannot be treated as a preliminary issue.

4. Therefore, the impugned order dated 24th February, 2010 suffers from jurisdictional infirmity. It is quashed and set aside. The trial Court shall decide the issue with regard to the territorial jurisdiction of the Court while trying the suit along with other issues in the suit.

5. Accordingly, the writ petition is allowed.

6. Let a copy of this order be forwarded to the Trial Court forthwith.

(CHIEF JUSTICE)