

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1982 OF 2024

VAIBHAV
RAMESH
JADHAV
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Floral Colors India Pvt. Ltd. & Ors. ... Petitioners

V/s.

De Martini Hitkari Fine Products Pvt.
Ltd. ... Respondent

Mr. Rajesh Singh for the petitioners.

Mr. Anil D'Souza with Mr. Ankit Dhindale i/by Mr.
Kartik Vig for the respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 21, 2025

P.C.:

1. The petitioners are defendants who have filed notice of motion before the Trial Court requesting the Court to transpose and convert summary suit into commercial suit and transfer the said into the Commercial Court.

2. Under Section 15 of the Commercial Courts Act, 2015, provisions are made for the transfer of suits and applications involving commercial disputes to Commercial Courts. The petitioners' request must be examined in light of the definition of "commercial dispute" under Section 2(1)(c) of the Act and the procedural requirements for such transfers.

3. It is well settled that the plaintiff is a dominus litis. He is entitled to invoke jurisdiction of the Court which he feels entitled in law. The plaintiff determines the forum and type of suit. In the absence specific statutory provision, neither the defendants nor the Court can force the plaintiff to convert a particular suit into another suit. The power available with the Court is to refuse to grant relief if ultimately it is found that such suit is not maintainable.

4. It is also open for the Court to refuse to grant any interim relief in plaintiff's favour if the suit is not in accordance with law, or is not maintainable, or is barred by any law. However, the defendants cannot seek a direction which has the effect of forcing the plaintiff to convert a summary suit into a commercial cause suit. Under Section 6 of the Commercial Courts Act, 2015, the jurisdiction of Commercial Courts is clearly defined, and it is the choice of the plaintiff which type of suit he wants to file.

5. Therefore, in my opinion, the Trial Court has rightly rejected the application. There is no error of jurisdiction, as the Court's supervisory powers under Article 227 of the Constitution of India are limited to ensuring procedural compliance and do not extend to dictating the course of litigation chosen by the plaintiff.

6. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)