

Mr. Sarosh Bharucha with Ms. Dipti Das, Mr. Sunil A. Vyas, Mr. Kaevaan, Ms. Rishika Jain, Mr. Meet Vithalani, Mr. Pranav Ameta i/by Fox Mandal and Associates LLP for Petitioner.

DATE : 7 OCTOBER 2025

P.C.

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 17 July 2025 passed by the learned Judge, City Civil Court, Greater Mumbai, whereby the learned Judge allowed the Notice of Motion taken out by the Respondent – Plaintiff for grant of leave under the provisions of Order II Rule 2(3) of the Code of Civil Procedure, 1908.
3. By the said Notice of Motion, the Plaintiff sought leave to institute the suit for the relief of injunction, reserving the right to sue for damages and other reliefs.
4. The Petitioner and Respondent No.2 are engaged in manufacturing and marketing of audio – video equipments. Respondent No.1 / Plaintiff was appointed as the distributor of the Respondent No.2's product portfolio in

India. A Partnership Agreement entitled 'Partners Agreement' dated 5 March 2021 was executed between the Respondent No.1 and Respondent No.2. Under a Novation Agreement dated 10 July 2024, Respondent No.2 transferred its obligation under the Partners Agreement dated 5 March 2021 to the Petitioner. The said Agreement provided for exclusive jurisdiction to the Courts at UAE for the resolution of the disputes amongst the parties. The Petitioner terminated the Novation Agreement as well as the Partners Agreement vide termination letter dated 22 May 2025. Respondent No.1 has, thus, instituted Suit No.1682 of 2025 seeking declaration that the termination letter dated 22 May 2025 is void, invalid and bad in law; that the Respondent No.1 is the sole and exclusive partner of the Defendants for the promotion, resale and distribution of the Defendants' product portfolio in India and injunctive reliefs.

5. In the said suit, by taking out the Notice of Motion under Order II Rule 2 of the Code, the Respondent No.1 sought to reserve right to seek damages and other reliefs and prayed for declaration and injunctive reliefs only. Learned Judge, City Civil Court was persuaded to grant the Notice of Motion observing, inter alia, that the substantial part of the cause of action has arisen within the local limits of the City Civil Court, and, therefore, leave was required to be granted.

6. Mr. Bharucha, learned Counsel for the Petitioner, submitted that the

learned Judge, City Civil Court, has granted leave under Order II Rule 2, though the Plaintiff had failed to demonstrate a sufficient cause for grant of such leave. It was further submitted that the Petitioner had questioned the jurisdiction of the City Civil Court to entertain, try and decide the said suit in view of the provisions contained in the Original Partners Agreement and Novation Agreement between the Petitioner and Respondent No.1 and Respondent No.2. Without deciding the question of jurisdiction, the learned Judge, City Civil Court could not have granted leave under Order II Rule 2 of the Code.

7. Placing reliance on the decision of the Supreme Court in the case of **Swastik Gases Pvt. Ltd. V/s. India Oil Corporation Limited**¹, Mr. Bharucha would urge that the leave under Order II Rule 2(3) of the Code can only be granted upon due satisfaction and good and sufficient reasons. No justifiable cause was ascribed by the Respondent No.1 to seek such leave under Order II Rule 2.

8. I have perused the averments in the application seeking leave under Order II Rule 2 of the Code. I find it rather difficult to accede to the submission of Mr. Bharucha that the Respondent No.1 has not ascribed justifiable reasons. In paragraph Nos.18 to 23 of the application, Respondent No.1 has spelled out the nature of the interest of Respondent No.1 in the

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subject matter of the dispute, quantum of the investment made by the Respondent No.1 and the imperativeness of the urgent injunctive reliefs. While considering a prayer for grant of leave under Order II Rule 2 of the Code, the aforesaid reasons appear to be prima facie sufficient. A very elaborate investigation is not warranted at the stage of grant of leave under Order II Rule 2(3) of the Code.

9. So far as the bar of jurisdiction, the learned Judge, City Civil Court, has expressly kept the issue open for consideration.

10. Mr. Bharucha informed the Court that the application for rejection of the plaint has also been filed on behalf of Respondent No.1.

11. The fact that the leave under Order II Rule 2 has been granted, does not imply that the question of jurisdiction will not be determined by the Court. Neither the grant of leave under Order II Rule 2 impairs the challenge to the jurisdiction of the Court. Nor would it confer jurisdiction on the Court where it does not possess.

12. For the foregoing reasons, the Writ Petition does not deserve to be entertained.

13. Hence, the Writ Petition stands dismissed.

(N.J.JAMADAR, J.)