

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

COMMERCIAL APPEAL FROM ORDER NO. 20 OF 2025

1. Divine Tubes Pvt. Ltd. and Ors. ...Appellants
V/s.
T. V. Trading Pvt. Ltd. ...Respondent

**WITH
INTERIM APPLICATION NO. 11275 OF 2025
IN
COMMERCIAL APPEAL FROM ORDER NO. 20 OF 2025**

1. Divine Tubes Pvt. Ltd. and Ors. ...Applicants
V/s.
T. V. Trading Pvt. Ltd. ...Respondent

Advocate Kiran Doiphode a/w Ms. Priyanka Mehta i/b V. M. Doiphode & Co.
for Applicants / Appellants
R. S. Tripathi a/w Jay Yadav for Respondent

**CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.**

DATE : 15TH OCTOBER 2025

ORDER :

1. By this Commercial Appeal from Order the Appellants have impugned the order dated 23rd June 2025 passed by the City Civil Court at

Mazgaon, Bombay in Notice of Motion No. 6393 of 2024 in Commercial Suit No. 527 of 2022.

2. By the said order dated 23rd June, 2025 the City Civil Court had dismissed the Notice of Motion which had been filed under Order VII, Rule 10 and 11 of the Civil Procedure Code, 1908 for returning the Plaint due to lack of territorial jurisdiction of this Court and due to lack of cause of action.

3. The learned Counsel for the Appellants has sought stay of the impugned order.

4. The learned Counsel for the Appellants has submitted that the City Civil Court has not taken into consideration the case made out by Appellants who were the Defendants therein that the Defendants were governed by the terms and conditions mentioned in the Proforma Invoice which had been issued by Raj Process and it restricted the jurisdiction to Kalol Court at Gujarat. Further, the Defendants had submitted that the goods were supplied to Raj Process Equipment and payment was received from the Plaintiff and it was informed that the Raj Process was the sister concern. The Defendant had further submitted that there is no business relation between the Plaintiff and Defendants and hence, no cause of action had arisen for filing the suit.

5. By the impugned order the City Civil Court has considered the submissions of the Appellants/Defendants therein. It has been held that in

the purchase order issued by the Plaintiff, it clearly mentions “subject to Mumbai Jurisdiction” and which purchase order has admittedly been received by the Appellants/Defendants. It is the Plaintiff’s case in the suit filed in the City Civil Court that it has nothing to do with the transactions between the Defendants and Raj Process and that the Plaintiff directly paid the amount in the account of the Defendants against the said purchase order. Further, the Plaintiff has denied that Raj Process is the sister concern of the Plaintiff.

5. The City Civil Court has after considering the submissions of the parties, held that it is not denied that the Plaintiff is carrying on the business at Mumbai and the Plaintiff placed purchase orders from Mumbai. In the purchase order the condition provided was “subject to Mumbai Jurisdiction”. The advance payment was also made from Mumbai. Accordingly, the finding is that the Court has territorial jurisdiction over the subject matter of the suit. Further, the City Civil Court has held that there is a cause of action for filing the suit as the purchase order has been placed by the Plaintiff on the Defendants and there is no denial of the placing of the purchase order by the Plaintiff on the Defendants. The case of the Plaintiff that it has nothing to do with the transaction between the Defendants and Raj Process has been *prima facie* accepted by the City Civil Court.

6. We do not find any infirmity in the impugned order which has

been passed in the Application under Order VII Rule 10 and 11. The defense raised by the Appellants/Defendants in the Commercial Suit of City Civil Court is required to be determined at trial and cannot be determined by this Court at the stage of an Application under Order VII, Rule 10 and 11.

7. The purchase order which has been issued by the Plaintiff on the Defendants, expressly has as a condition “subject to Mumbai Jurisdiction”, and in view of which, the City Civil Court does have jurisdiction over the subject matter of the Suit. It is always open for Appellants/Defendants therein to raise issues on the merits of the matter and the contentions raised herein have not been foreclosed by this order.

8. In that view of the matter the Commercial Appeal from Order is dismissed. There shall be no order as to costs.

9. The Interim Application filed therein does not survive and is also disposed of.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)