



2025:DHC:9778



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

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Judgment reserved on: 07.11.2025
Judgment pronounced on: 10.11.2025

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CM(M) 926/2025 & CM APPL. 30278/2025**M/S SHREE BALAJEE ENTERPRISES AND ANRPetitioners****Through: Mr. Nilkamal Chobey, Advocate.****versus****M/S MAHASHIAN DI HATTI (MDH) PVT LTDRespondent****Through: Mr. Ojasvi Annadi Shambhu,
Advocate.****CORAM:****HON'BLE MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T**

1. This petition, brought under Article 227 of the Constitution of India assails dismissal of application that was filed by the defendants (*petitioners herein*) under the provisions of Order VII Rule 11 CPC in the commercial suit for recovery of money. I have heard learned counsel for both sides.

2. The circumstances relevant for present purposes are briefly narrated below.

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2.1 The plaintiff company (*respondent herein*), engaged in production and sale of spices from its registered office in Kirti Nagar, New Delhi filed a commercial suit against the present petitioners/defendants for recovery of Rs.44,88,637.03 with *pendente lite* and future interest, pleading as follows. The respondent/plaintiff and the petitioners/defendants are engaged in business of spices for past several years, the former supplying the spices to the latter. Based on invoices issued in the month of April 2022, the respondent/plaintiff supplied spices to the petitioners/defendants for a total consideration of Rs.1,41,84,890/-, out of which the petitioners/defendants made part payment of Rs.96,96,252.97, leaving the balance due to the tune of Rs.44,88,637.03. But despite repeated requests of the respondent/plaintiff and demand notice dated 06.07.2022, the petitioners/defendants did not pay the balance amount. The relevant paragraphs of the plaint, dealing with the issue of cause of action and territorial jurisdiction are extracted below:

“11. That the cause of action for filing the present suit arose in favour of the plaintiff company and against the defendants on 18.04.2022 and 20.04.2022 when the Plaintiff company, upon the request of the defendants, issued the Invoices and supplied the spices accordingly to the defendants. The cause of action further arose when, on the request of the Defendants, the Plaintiff Company dispatched the requested spices and the Defendants accordingly cleared the part payment to the tune of Rs 96,96,252. 97 /- (Rupees Ninety Six Lacs Ninety Six Thousand Two Hundred Fifty Two and Ninety Seven Paise Only) in favour of the Plaintiff Company. The cause of action further arose as the Plaintiff Company has been maintaining the regular ledger account of the Defendants and the total amount for the delivered requested goods/ spices was Rs 1,41,84,890/- (Rupees One Crore Fourty One Lacs Eighty Four Thousand Eight Hundred Ninety Only) and the Plaintiff Company has only received the part payment to the tune of Rs 96,96,252.97 /(Rupees Ninety Six Lacs Ninety Six Thousand Two Hundred Fifty Two and Ninety Seven Paise Only), hence the



remaining balance is Rs 44,88,637.03/- (Rupees Fourty Four Lacs Eighty Eight Thousand Six Hundred Thirty Seven and Three Paisa Only) towards the delivered spices. The cause of action further arose in the last week of May 2022, when the Plaintiff Company contacted the defendants and requested them to clear the aforementioned balance remaining payment qua the spices which have been delivered to them whereupon, the defendants promised/assured the Plaintiff Company to clear the balance remaining sum of Rs 44,88,637.03/- (Rupees Fourty Four Lacs Eighty Eight Thousand Six Hundred Thirty Seven and Three Paisa Only) within the period of 15 days. The cause of action is still continuing as the defendants till date have not cleared the balance remaining amount of Rs 44,88,637.03/- (Rupees Fourty Four Lacs Eighty Eight Thousand Six Hundred Thirty Seven and Three Paisa Only), towards the goods/articles delivered to the defendant and the defendants have been utilizing the same in their own whims and wish.

12. That this Hon'ble court has the necessary jurisdiction to entertain and try the present suit under Section 20 (c) of the Code of Procedure 1908, as a part of the cause of action has arisen within the jurisdiction of this Hon'ble court.

a) That the cause of action arose in Delhi as the spices/goods/articles have been dispatched from the Registered office of the Plaintiff Company situated at Kirti Nagar, New Delhi.

b) That the Plaintiff company to the present suit has its Registered Office at Delhi also and works for gain in Delhi.”

2.2 The petitioners/defendants filed Written Statement on 06.05.2023, followed by Counterclaim on 17.07.2023, pleading that they are not liable to pay any money and rather deserve a Counterclaim. In their Written Statement, the petitioners/defendants admitted that the respondent/plaintiff is engaged in business of production and sale of spices for past several years and has its registered office in Kirti Nagar, Delhi. The petitioners/defendants in the Written Statement also admitted having made part payment of Rs.96,96,252.97 to the respondent/plaintiff but further submitted that they had to recover more than Rs.46,00,000/- from the respondent/plaintiff towards a scheme. In response to pleadings of the respondent/plaintiff



related to cause of action and territorial jurisdiction, petitioners/defendants pleaded as follows:

“11. That the contents of para no.11 of the plaint do not constitute the cause of action for filing that present suit. The Plaintiff had sent the goods in April, 2022 to the defendants from Faridabad and not from Delhi as alleged. The cause of action mentioned in the para under reply is nothing but a mere formality of mentioning the cause of action in the plaint. The cause of action as alleged is false, flimsy and baseless, hence denied.

12. That the contents of para no.12 of the plaint are also wrong and denied as no cause of action ever arose for filing the present suit in Delhi. This Hon'ble Court has no territorial jurisdiction to try and entertain the present suit. The mere fact that the registered office of the plaintiff is situated in Delhi cannot be considered as the valid point for conferment of territorial jurisdiction on this Hon'ble Court.”

2.3 On the basis of rival pleadings, the learned trial court framed the following issues on 31.10.2023:

- “1. Whether this Court has jurisdiction to try and entertain the present suit? OPP*
- 2. Whether the plaintiff is entitled to recovery of Rs.44.88,637.03/- . ? OPP*
- 3. Whether the plaintiff is entitled to interest on Rs. 44.88,637.03/- . If so at what rate and for what period? OPP*
- 4. Relief.”*

2.4 Subsequent to the evidence led by respondent/plaintiff, application under Order VII Rule 11 CPC was filed by the petitioners/defendants claiming that since no cause of action arose within the territorial jurisdiction of Delhi courts, the plaint was liable to be rejected. It would be significant to record that alleging lack of territorial jurisdiction, the application not just invoked the provision under Order VII Rule 11 CPC, but even in the prayer clause, the petitioners/defendants sought rejection (*and not return*) of plaint. The respondent/plaintiff filed a detailed reply to the said application.

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2.5 After hearing both sides, learned trial court dismissed the application of the petitioners/defendants by way of the impugned order, observing that pertaining to the territorial jurisdiction of the court, an issue had already been framed on 31.10.2023; that the petitioners/defendants in their Written Statement had admitted about registered office of the respondent/plaintiff being in Kirti Nagar, New Delhi, from where the parties were engaged in correspondence with each other; that the respondent/plaintiff had specifically pleaded in the plaint that the goods in question had been dispatched from Kirti Nagar, New Delhi, which was not denied in the Written Statement and following the principle of “*debtor seeks the creditor*”, Delhi Court has territorial jurisdiction; and that the respondent/plaintiff had placed on record a bank certificate to show that the petitioners/defendants had made part payment in the Current Account of the respondent/plaintiff in Kirti Nagar Branch of State Bank of India, which fact was not denied. The learned trial court also dealt with the contention of learned counsel for petitioners/defendants as regards taking on record the above mentioned bank certificate.

3. Hence, the present petition, assailing dismissal of the application under Order VII Rule 11 CPC.

4. In order to ensure compliance in letter and spirit of order dated 10.10.2025 of the Supreme Court in SLP No.28519/2025 (*copy whereof was placed before me in late evening of 06.11.2025*), final arguments were heard



and concluded on 07.11.2025, reserving the matter for judgment. In order dated 07.11.2025, the rival arguments and contentions were recorded in presence of counsel for both sides and the same are extracted below:

“4. In this second call in post-lunch session, final arguments have been heard from both sides. Since due to pending board, writing an oral order would not be possible, for convenience, arguments and contentions of both sides are noted as follows.

4.1 Learned counsel for petitioners has argued that the document relied upon by the trial court as a bank certificate was wrongly relied upon because no leave under Order XI Rule 1 (5) CPC was obtained. It is further argued that the application under Order VII Rule 11 CPC can be filed at any stage of proceedings and even subsequent to commencement of trial. It is contended that in the counter-claim itself, the present petitioners had pleaded that if the suit gets dismissed on issue of territorial jurisdiction, the present petitioners would withdraw the counter-claim. It is also argued by learned counsel for petitioners that after filing of the bank certificate, the plaint ought to have been amended and that having not been done, the impugned order is bad in law. Finally, it is contended that the plaint and the documents do not reflect any cause of action in Delhi. No other argument has been advanced on behalf of petitioners.

4.2 On the other hand, learned counsel for respondent/plaintiff argued that the trial court has already framed an issue on territorial jurisdiction, so there is nothing wrong in the impugned order. It is contended that in the written statement, the present petitioners categorically admitted (pdf 127) that the present respondent has a registered office in New Delhi and they have also admitted (pdf 132) that part payment was made to the present respondent in Delhi, which stands established from the bank certificate in question. Further, reading pdf 133 which also forms part of the written statement, learned counsel for respondent contends that the present petitioners categorically admitted their liability to pay the suit amount to the present respondent. It is argued that entire evidence of plaintiff stands concluded but not a single question was asked to any witness challenging territorial jurisdiction and even no suggestion to that effect was put. It is also argued that part payment was made by the present petitioners through RTGS in the Delhi account of the present respondent and this fact remains not challenged even in cross-examination of plaintiff's witnesses. In this regard, learned counsel



*for respondent places reliance on the judgments of coordinate benches of this Court in the case of **M/s Auto Movers vs. Luminous Power Technologies Pvt. Ltd.**, [CM(M) 604/2020] decided on 16.09.2021 and in the case of **RT Construction vs. Kotec Automotive Services India Pvt. Ltd. & Anr.** [I.A. 19709/2022 in CS(COMM) 291/2022] decided on 11.08.2023. Learned counsel for respondent contends that the bank certificate was filed simply to corroborate the admission of the present petitioners in the Written Statement as regards the part-payment made in Delhi. Besides, learned counsel for respondent also takes me through record to contend that the petitioners have been trying to protract the proceedings by way of repeated adjournments and adverse orders for which cost was imposed multiple times. It is also pointed out that even the court fees on the counter-claim was paid after prolonged delay. The contention is that application under Order VII Rule 11 CPC was filed only to further protract the proceedings.*

4.3 Learned counsel for petitioners addressed rebuttal arguments, which are primarily repetition of the main arguments. It is contended that the adjournments taken by the petitioners before the trial court were never opposed by the present respondent. Learned counsel for petitioners reiterated that in the plaint, there is no averment at all reflecting any part-payment in Delhi. As regards paragraph 12 of the plaint (pleading that the goods were supplied from Delhi) and the corresponding reply in the Written Statement, learned counsel for petitioners contends that such bald averment cannot be read in isolation.

5. Accordingly, final arguments stand concluded. Judgment reserved.”

5. To recapitulate, claim of the petitioners/defendants is that Delhi courts lack territorial jurisdiction to entertain the subject suit. On that count, what the petitioners/defendants seek is not return of the plaint, to be filed in the court of competent jurisdiction. The petitioners/defendants seek rejection of plaint on that ground. It is trite that merely because wrong provision of law is invoked, the application cannot be dismissed; the court must examine the content of the application and the relief sought. In the present case, it is not just that the petitioners/defendants invoked the provisions under Order VII



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Rule 11 CPC instead of Order VII Rule 10 CPC, the petitioners/defendants even in the prayer clause of the application sought rejection and not return of the plaint. It is not a case where the plaint does not raise any cause of action. The petitioners/defendants also do not claim that there is no cause of action at all. What the petitioners/defendants claim is that in Delhi there is no cause of action. That is the reason, the trial court based on the rival pleadings framed a specific issue as to whether the subject suit falls within territorial jurisdiction of Delhi courts. Even if the respondent/plaintiff fails to prove during trial that the cause of action arose in Delhi, the consequence would be return of the plaint and not rejection thereof.

6. As mentioned above, the respondent/plaintiff has placed reliance on certificate dated 19.04.2025 issued by the Chief Manager of State Bank of India, Kirti Nagar Branch, New Delhi, certifying that two payments, to the total tune of Rs.70,00,000/- were received by them in Kirti Nagar Branch account of the respondent/plaintiff from the petitioners/defendants. The evidentiary value of that certificate cannot be tested while deciding the application under Order VII Rule 11 CPC.

6.1 In this regard, contention of learned counsel for petitioners/defendants that the trial court could not have placed reliance on the said document because no leave under Order XI Rule 1(5) CPC was obtained; and that after filing thereof, plaint should have been amended before placing reliance on the same, fails to inspire confidence. The said provision of the Code does not stipulate a blanket ban on filing of the additional documents by plaintiff

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after filing of the plaint. What sub-rule (5) of Rule 1 of Order XI of the Code stipulates is that such additional documents cannot be taken on record except with the leave of the court, and that such leave shall be granted only upon the plaintiff establishing a reasonable cause for non-disclosure about that document. The Code contemplates neither any requirement of filing a written application for such leave nor any specific format of such leave in the order of the trial court. There is no bar against making an oral request in that regard and the trial court taking such additional documents on record on being satisfied about reasonableness of the cause explained for non-disclosure of that document.

6.2 As mentioned above, the suit was filed on 05.09.2022 while the said bank certificate is dated 19.04.2025. In other words, when the suit was filed, the bank certificate was not even in existence and consequently not in power, possession, control or custody of the respondent/plaintiff. In paragraph 17 of the impugned order, the learned trial court elaborated the circumstances which justify taking the said bank certificate on record. It would be apposite to extract paragraph 17 of the impugned order, which is as follows:

“17. The main contention raised by Ld. Counsel for defendant is that plaintiff cannot be permitted to place on record this document i.e. bank certificate dated 19.04.2025. The present suit was filed on 14.09.2022. After issuance of summons, none appeared on behalf of defendant and defendant was proceeded ex-parte and ex-parte order was set aside on 06.05.2024. Thereafter, the defendant has filed application under Order VII Rule 11 CPC. During arguments, Ld. Counsel for plaintiff sought some time to show that this court has jurisdiction to try and entertain the present suit as defendant has made payment in the bank account of plaintiff situated within the jurisdiction of this court. Moreover, if this contention of Ld. Counsel



for defendant is accepted even then plaintiff can prove this document during evidence. I am of the view that the defendant has filed the present application u/o VII Rule 11 CPC only to delay the trial of the present suit.”

6.3 Therefore, I am of the considered view that there was no error in the learned trial court taking on record the bank certificate, which would be proved by the respondent/plaintiff in accordance with law.

7. It is trite that while dealing with an application under Order VII Rule 11 CPC, the court must read the plaint as a whole, taking into consideration the content and not just form of the pleadings. At the cost of repetition, it needs to be kept in mind that the respondent/plaintiff specifically pleaded that its registered office is in Delhi and the petitioners/defendants made part payment in Kirti Nagar Branch, New Delhi account of respondent/plaintiff with State Bank of India. In similar circumstances, the coordinate benches of this court in the cases of **Auto Movers** (supra) and **R.T. Construction** (supra) after detailed discussion held that since on account of part payment in Delhi, cause of action partly arose in Delhi, courts in Delhi do not lack territorial jurisdiction to try the suit.

8. Most importantly, as mentioned above, in paragraph 12 of the plaint the respondent/plaintiff specifically pleaded that cause of action arose in Delhi because the spices were dispatched from registered office of respondent/plaintiff in Kirti Nagar, New Delhi. Respondent/plaintiff cannot be deprived of an opportunity to prove this averment. As such, return (*much less rejection*) of plaint in such situation would not be permissible.



9. To reiterate, according to respondent/plaintiff, the goods were supplied from Delhi and even part payments by petitioners/defendants were done in Delhi; so, it cannot be said that for the purposes of return (*much less rejection*) of plaint, Delhi courts lack territorial jurisdiction. Therefore, I find no infirmity in the impugned order.

10. There is another aspect. As mentioned above, the learned trial court has already framed a specific issue on the territorial jurisdiction of Delhi courts, and the trial is at its fag end.

10.1 Of course, the application under Order VII Rule 11 CPC can be filed at any stage. But where the trial is reaching culmination, would it not be better if the suit is decided on merits-based trial.

10.2 In this regard, legal position was elucidated by the Supreme Court in the case titled ***M/s Bhagya Estate Benchers Pvt. Ltd. vs Narne Estates Pvt. Ltd.***, Civil Appeal No.4570 of 2023 decided on 11.09.2024, holding thus:

“12. The above position holds good as we are not of the opinion that issuance of summons shall foreclose the right of the defendant to seek rejection of plaint; but the focal issue for consideration is that till when and for how long can this right of the defendant survive?”

13. It is amply clear that the purpose behind such a provision is to ensure that the plaints or petitions which are defective, for any of the reasons enumerated, shall not be allowed to proceed further and shall be put to an end before they progress to an advanced stage. When such is the purpose, we fail to understand as to how an application for rejection of a plaint can be entertained at a stage where written submission has already been filed, evidence has been led and the trial has substantially reached the stage of final arguments, as in the present



case. This would rather go completely against the objective of the provision and would effectively not serve the purpose which it intended to.

14. Moreover, when the proceedings have reached such an advanced stage of trial and the Court has gone through the merits of the case, it is fair to presume that the Court has already applied its mind to the substantive submissions and cannot make a *prima facie* conclusion about a plaint being improper at the outset or not. Also, it is a settled position of law that when the court is considering an application under Order VII Rule 11, it must only peruse and consider the averments in the plaint to check whether the plaint is defective for any of the reasons provided under the rule or is a proper plaint. Since the plaint is the only material to be considered while deciding an application seeking rejection of plaint, then in a case where plaint has been registered, written submission has been filed, evidence has been recorded, and the parties are ready for final arguments, it is only natural that some form of bias or opinion regarding the merits of the case would crop up in the mind of the court. In such a scenario, looking at the plaint in isolation and deciding the rejection application based solely on *prima facie* reading of the plaint would not be possible. At this point, the trial has rather fructified to a stage where the dismissal of a suit on merits is a more appropriate course of action instead of rejecting a plaint at the outset which should have been done at a preliminary stage.

15. It is already a clarified position of law that without disposing of an application under Order VII Rule 11, CPC, the court cannot proceed with the trial. When this is the position of law and the purpose of the provision is also settled, then, we see no reason for the right of the defendant to raise such a plea at a far belated stage such as final arguments or nearing conclusion of the trial. Allowing such pleas to be raised after the trial has proceeded so far would not only defeat the intent of the provision but would also go against the principle of equity and would lead to wastage of the court resources. Additionally, allowing such rights to survive till eternity only act as a catalyst for the defendant to misuse the provision to law.”

10.3 In the present case, the subject suit was filed by respondent/plaintiff on 05.09.2022 and the Written Statement by petitioners/defendants was filed on 06.05.2023, while the application under Order VII Rule 11 CPC was filed



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much belatedly on 07.04.2025, that too despite the trial court having framed specific issue on territorial jurisdiction.

10.4 Not only this, prior to filing the application under Order VII Rule 11 CPC, the petitioners/defendants also filed a Counterclaim on 17.07.2023. One wonders, if the petitioners/defendants genuinely believed that Delhi courts have no territorial jurisdiction, why would they file Counterclaim in the same court. As noted above, trial is at almost fag end, and after analyzing the record, the learned trial court has recorded explicit findings that the application under Order VII Rule 11 CPC was filed by petitioners/defendants only to delay the trial.

11. In view of the aforesaid, I am unable to find any infirmity, much less perversity in the impugned order that would call for intervention by this court under Article 227 of the Constitution of India. The present petition is not just devoid of merit, but also totally frivolous, filed with oblique purposes of protracting the proceedings to frustrate the respondent/plaintiff into giving up its claim. Therefore, this petition and the accompanying application are dismissed with costs of Rs.25,000/- to be paid by the petitioners/defendants to the respondent/plaintiff within one week from today.

**GIRISH
KATHPALIA**

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**GIRISH KATHPALIA
(JUDGE)**

NOVEMBER 10, 2025/ry

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