



2025:DHC:10130



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

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*Judgment Reserved on: 12<sup>th</sup> August, 2025**Judgment Pronounced on: 18<sup>th</sup> November, 2025*

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ARB.P. 644/2024

ARYAN INFRAHEIGHT P LIMITED

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate  
with Mr. Rajiv Ranjan Mishra and Ms. Suruchi  
Yadav, Advocates.

versus

SIGNATURE GLOBAL INDIA LTD

.....Respondent

Through: Mr. Jayant K. Mehta, Senior  
Advocate with Mr. Ashish Aggarwal, Mr. O.P.  
Faizi, Mr. Anand Aggarwal, Ms. Darshna  
Aggarwal, Mr. Himanshu Singh, Ms. Shivangi  
Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and  
Ms. Lisha Arora, Advocates.

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O.M.P.(I) (COMM.) 412/2023 and I.A. 2708/2025, 2709/2025

ARYAN INFRAHEIGHT (P) LIMITED

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate  
with Mr. Rajiv Ranjan Mishra and Ms. Suruchi  
Yadav, Advocates.

versus

SIGNATURE GLOBAL PVT LTD

.....Respondent

Through: Mr. Jayant K. Mehta, Senior  
Advocate with Mr. Ashish Aggarwal, Mr. O.P.  
Faizi, Mr. Anand Aggarwal, Ms. Darshna  
Aggarwal, Mr. Himanshu Singh, Ms. Shivangi  
Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and  
Ms. Lisha Arora, Advocates.



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+ ARB.P. 645/2024

ARYAN INFRAHEIGHT (P) LIMITED

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate  
with Mr. Rajiv Ranjan Mishra and Ms. Suruchi  
Yadav, Advocates.

versus

SIGNATURE GLOBAL INDIA LTD.

.....Respondent

Through: Mr. Jayant K. Mehta, Senior  
Advocate with Mr. Ashish Aggarwal, Mr. O.P.  
Faizi, Mr. Anand Aggarwal, Ms. Darshna  
Aggarwal, Mr. Himanshu Singh, Ms. Shivangi  
Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and  
Ms. Lisha Arora, Advocates.

+ ARB.P. 648/2024

M/S DHANINDRA AND SONS CONSTRUCTION  
PVT. LTD.

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate  
with Mr. Rajiv Ranjan Mishra and Ms. Suruchi  
Yadav, Advocates.

versus

SIGNATURE GLOBAL (INDIA) LTD

.....Respondent

Through: Mr. Jayant K. Mehta, Senior  
Advocate with Mr. Ashish Aggarwal, Mr. O.P.  
Faizi, Mr. Anand Aggarwal, Ms. Darshna  
Aggarwal, Mr. Himanshu Singh, Ms. Shivangi  
Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and  
Ms. Lisha Arora, Advocates.

+ O.M.P.(I) (COMM.) 151/2024

ARYAN INFRAHEIGHT (P) LIMITED

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate  
with Mr. Rajiv Ranjan Mishra and Ms. Suruchi  
Yadav, Advocates.

versus



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SIGNATURE GLOBAL (INDIA) LTD.

.....Respondent

Through: Mr. Jayant K. Mehta, Senior Advocate with Mr. Ashish Aggarwal, Mr. O.P. Faizi, Mr. Anand Aggarwal, Ms. Darshna Aggarwal, Mr. Himanshu Singh, Ms. Shivangi Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and Ms. Lisha Arora, Advocates.

+ O.M.P.(I) (COMM.) 152/2024

ARYAN INFRAHEIGHT (P) LIMITED

.....Petitioner

Through: Mr. Santosh Kumar, Senior Advocate with Mr. Rajiv Ranjan Mishra and Ms. Suruchi Yadav, Advocates.

versus

SIGNATURE GLOBAL (INDIA) LTD.

.....Respondent

Through: Mr. Jayant K. Mehta, Senior Advocate with Mr. Ashish Aggarwal, Mr. O.P. Faizi, Mr. Anand Aggarwal, Ms. Darshna Aggarwal, Mr. Himanshu Singh, Ms. Shivangi Shokeen, Mr. Rahul Malik, Mr. Rajat Sinha and Ms. Lisha Arora, Advocates.

**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J.****ARB.P. 644/2024, ARB.P. 645/2024 and ARB.P. 648/2024**

1. These petitions are filed on behalf of the Petitioners under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of Arbitrator for adjudication of *inter se* disputes between the parties.
2. Arb. P. 644/2024 arises out of Contract Agreement dated 24.02.2021 and Work Order dated 24.02.2021 relating to construction of "Civil



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*Structural, Finishing, Civil Work of UG Tank & STP Tank, Community & Anganwadi and Part Electrical Work*” in Affordable Group Housing Project “Superbia” at Sector-95, Gurugram, Haryana. Disputes arose between the parties, each one blaming the other for non-performance/breach of the contract. Petitioner filed O.M.P.(I) (COMM.) 151/2024 under Section 9 of the 1996 Act seeking interim relief against the Respondent from alienating/dismantling the plant and machinery installed at the construction site and also depositing security cheques, encashing indemnity bonds and performance guarantee bonds and creating third party interests. No interim relief was granted by the Court and subsequently, present petition was filed for appointment of the Arbitrator.

3. Petitioner invokes the territorial jurisdiction of this Court relying on Clause 9 of the Contract Agreement dated 24.02.2021 and seeks appointment of the Arbitrator under Arbitration Clause 42 of General Conditions of Contract (‘GCC’).

4. Arb. P. 645/2024 arises out of Contract Agreement dated 07.01.2022 and Work Order dated 07.01.2022 relating to construction of “*Civil, Structural, Finishing Works of Floors, Boundary Wall, STP, UGT, Electrical Sub-Station (ESS) & Part Electrical Works*” under DDJAY (Deen Dayal Jan Awas Yojana) Project SG CITY-81, Sector-81 of Plot Area 11.98 Acres, Gurugram, Haryana. Disputes arose between the parties, each party levelling allegations on the other for breach of the contract. Petitioner filed O.M.P.(I) (COMM.) 412/2023 under Section 9 of the 1996 Act seeking interim relief against the Respondent from alienating/dismantling the plant and machinery installed at the construction site and also depositing security cheques, encashing indemnity bonds and performance guarantee bonds and



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creating third party interests. The interim reliefs sought were not granted *albeit* parties were directed to make an attempt to amicably resolve the disputes and pending resolution, vide order dated 21.03.2024, Court directed the parties not to pursue any criminal complaints that may have been filed by them. Subsequently, this petition was filed for appointment of the Arbitrator.

5. Petitioner invokes the territorial jurisdiction of this Court relying on Clause 9 of the Contract Agreement dated 07.01.2022 and seeks appointment of the Arbitrator under Arbitration Clause 25 of Work Order dated 07.01.2022.

6. Arb. P. 648/2024 arises out of Contract Agreement dated 26.10.2022 and Work Order dated 26.10.2022 relating to construction of “*Roads & Hard Landscape Works*” in Affordable Group Housing Project “Proxima-2” in Sector-89, Gurugram, Haryana. *Inter se* disputes arose between the parties leading to filing of the present petition for appointment of Arbitrator. Petitioner invokes the territorial jurisdiction of this Court relying on Clause 9 of the Contract Agreement dated 26.10.2022 and seeks appointment of the Arbitrator under Arbitration Clause 29 of Work Order dated 26.10.2022.

7. In respect of Work Order dated 08.05.2020 pertaining to construction of “*Civil Structural, Finishing, STP Tank, UG Tank & Part Electrical Work*” in Affordable Group Housing Project “Proxima-II” at Sector-89, Gurugram, Haryana, Petitioner filed O.M.P.(I) (COMM.) 152/2024 under Section 9 of the 1996 Act seeking interim relief against the Respondent from alienating/dismantling the plant and machinery installed at the construction site and also depositing security cheques, encashing indemnity bonds and



performance guarantee bonds and creating third party interests. No interim relief was granted by the Court.

8. Replies were filed by the Respondent wherein maintainability of these petitions was questioned on two-fold grounds: (a) lack of territorial jurisdiction of this Court; and (b) non-existence of arbitration clause. Learned Senior Counsel for the Respondent argued that this Court lacks the territorial jurisdiction to entertain the petitions since the subject matter of the disputes between the parties is a construction contract awarded by the Respondents to the Petitioners for projects at Gurugram, Haryana and the disputes *inter alia* pertain to plant and machinery, equipment etc. installed at the projects; allegations of delay in execution of the work at the site due to orders banning construction owing to environmental issues; delay in supply of materials and payments etc., and therefore cause of action, if any, has arisen in entirety at Gurugram, Haryana. It was further argued that the stand of the Petitioners that contract agreements were executed at Delhi and thus this Court has jurisdiction is wholly misplaced inasmuch as a bare perusal of the agreements would show that they were executed in Gurugram, Haryana, and stamp duty was also paid there.

9. It was further contended that Respondent does not carry on business within the territorial boundaries of this Court. Corporate Office of the Respondent is located at Gurugram, from where entire business is carried out and all negotiations and deliberations pertaining to the present contracts were also held at the Corporate Office. No doubt, Registered Office of the Respondent is located at Delhi but no cause of action has arisen at the Registered Office and therefore as per Explanation to Section 20 CPC, Respondent cannot be sued at the place of Registered office. In a nut-shell,



the plea of Respondent was that no cause of action has arisen within the territorial jurisdiction of this Court and since the purported arbitration clauses do not designate any seat, place or venue, applying the principles of Sections 16 to 20 CPC, this Court cannot entertain these petitions. It was also emphasized that Petitioners clearly understood this position in law and which is why notices under Section 21 of the 1996 Act invoking arbitration were sent at the Corporate Office at Gurugram.

10. Reliance was placed on the judgments of the Supreme Court in ***Patel Roadways Limited, Bombay v. Prasad Trading Company, (1991) 4 SCC 270*** and ***New Moga Transport Co., through its Proprietor Krishanlal Jhanwar v. United India Insurance Co. Ltd. and Others, (2004) 4 SCC 677*** and of this Court in ***Ultra Home Construction Pvt. Ltd. v. Purushottam Kumar Chaubey & Ors., 2016 SCC OnLine Del 376*** and ***Piccadily Agro Industries Ltd. v. Ashok Narwal and Anr., 2016 SCC OnLine Del 1542***.

11. It was urged that reliance of the Petitioners on Clause 9 of the respective Contract Agreements, which provides that “*This agreement shall be governed by laws of India and the Parties hereby agree to submit to the exclusive jurisdiction of the district courts in Delhi, in respect of any matter arising out of this Agreement*”, is misplaced. It is trite that by agreeing to an exclusive jurisdiction clause, parties can oust the jurisdiction of other Courts but this principle applies only when the said Court has jurisdiction otherwise to entertain the petition. It is settled that parties cannot confer jurisdiction on a Court which does not have jurisdiction, which means that by merely providing for an exclusive jurisdiction clause, parties cannot confer jurisdiction on a Court which does not have jurisdiction and in such circumstance, the exclusive jurisdiction clause has been held to be illegal,





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invalid and unenforceable. Reliance was placed on the judgment of the Supreme Court in ***Swastik Gases Private Limited v. Indian Oil Corporation Limited, (2013) 9 SCC 32***, to buttress this submission.

12. Petitioners have laid emphasis on the criminal complaints filed by the Respondent under Section 138 of the Negotiable Instruments Act, 1881 ('N.I. Act'), wherein an averment has been made that the complainant has a bank account in Delhi. This argument cannot inure in favour of the Petitioners as the jurisdiction for complaints under Section 138 of N.I. Act is governed by different principles and moreover, the argument of depositing cheques in an account in Delhi as basis to confer territorial jurisdiction on a Court under Section 11 of the 1996 Act has been negated by this Court in ***Faith Constructions v. N.W.G.E.L Church, 2025 SCC OnLine Del 1746***.

13. The second and the only other preliminary objection is that Petitioners cannot invoke Clause 42 of GCC in Arb. P. 644/2024 and Clauses 25 and 29 of the Work Orders dated 07.01.2022 and 26.10.2022 in Arb. P. 645/2024 and Arb. P. 648/2024, respectively for reference of disputes to arbitration under Section 11 of the 1996 Act since these Clauses, on a plain reading, only provide a mechanism to resolve disputes relating to specifications, drawings, designs and instructions and cannot be extended to any other dispute. Secondly, the Clauses provide for nomination of sole Arbitrator by the Managing Director of the Respondent and further provide that no person other than a person appointed by the Managing Director would act as an Arbitrator and if for any reason that is not possible, the disputes are not to be referred for arbitration at all. In the present cases, Managing Director has not appointed an Arbitrator and therefore, there is no valid arbitration agreement in existence between the parties and no reference can be made for





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arbitration. It was urged that this Court in *Vindhya Vasini Construction Co. v. Bharat Heavy Electricals Ltd.*, 2023 SCC OnLine Del 2768, while dealing with an identical clause held that the wording of the clause reflects that parties did not intend to resolve their disputes through arbitration and against the said judgment, SLP(C) Diary No.37132/2023 was dismissed by the Supreme Court on 04.12.2023. In *System for International Agencies v. Rahul Coach Builders Private Limited*, (2015) 13 SCC 436, the Supreme Court held that if the arbitration clause is vague and does not indicate a clear and unambiguous intention of the parties to arbitrate, no reference can be made by the Court.

14. Responding to the objection of territorial jurisdiction, learned Senior Counsel for the Petitioners contended that territorial jurisdiction of this Court is not solely dependent on or determined by the fact that the projects were to be executed at Gurugram or that the sites of the projects were at Gurugram. The contract agreements were executed at Delhi and admittedly, Registered Office of the Respondent is at Delhi and this is sufficient for this Court to exercise jurisdiction and entertain the present petitions. Moreover, Respondent overlooks a crucial fact that the parties consciously incorporated Clause 9 in the Contract Agreements providing exclusive jurisdiction to the District Courts at Delhi for adjudication of the disputes emanating from the Agreements and as held by the Supreme Court in *Swastik Gases (supra)*, exclusive jurisdiction clauses act as ouster clauses, ousting jurisdiction of all other Courts. It was articulated that it is trite that the terms and conditions of contracts entered into between the parties out of their free will or volition must be respected and given effect to, as held by the Supreme Court in *Bharat Aluminium Company v. Kaiser Aluminium Technical Services*



*Inc., (2012) 9 SCC 552*. Reliance was placed on the judgement in *A.B.C. Laminart (P) Ltd. and Another v. A.P. Agencies, Salem, (1989) 2 SCC 163*, wherein the Supreme Court held that if multiple Courts have jurisdiction, the exclusive jurisdiction clause indicating the intent of the parties to confer jurisdiction for adjudication of disputes on one Court, to the exclusion of other Courts, must be given effect to. It was also urged that in the present case, arbitration clauses do not designate seat, venue or place of arbitration and therefore, Clause 9 providing exclusive jurisdiction of Courts at Delhi will confer jurisdiction on the Court to entertain these petitions under Section 11(6) of the 1996 Act. If Clause 9 is not given effect to, it will amount to overriding the clear intent of the parties to confer jurisdiction on the Court at Delhi, to the exclusion of all other Courts, which is impermissible.

15. Reliance was placed by learned Senior Counsel on the judgments in *Rita Nandwani v. M/s Nestaway Technologies Pvt. Ltd., Arb. P. 1414/2022, decided on: 14.09.2023; Nexus Design Project Pvt. Ltd. v. Travel Foods Services (Delhi Terminal 3) Pvt. Ltd., Arb. P. 340/2014, decided on: 27.02.2015; and Emkay Global Financial Services Limited v. Girdhar Sondhi, (2018) 9 SCC 49*.

16. Insofar as the second preliminary objection is concerned, learned Senior Counsel for the Petitioners contended that Respondent is giving a very narrow and restrictive interpretation to Clauses 42, 25 and 29, contrary to the plain language of the clauses, which when read holistically, leave no doubt that parties intended that all disputes arising out of the Contract Agreements and Work Orders including specifications, designs etc. will be adjudicated through the alternate disputes resolution mechanism of



arbitration. It is trite that intent of the parties to take recourse to arbitration must be given due regard. It was also urged that in another petition under Section 11 of the 1996 Act filed by Aryan Infraheight (P) Limited against TDI Infrastructure Ltd. being Arb. P. 980/2022, wherein a similar arbitration clause was incorporated in the Contract Agreement, the Court allowed the petition and referred the parties to arbitration vide order dated 19.01.2023 and SLP filed against the said order was dismissed by the Supreme Court on 06.04.2023.

17. Heard learned Senior Counsels for the parties and examined their rival submissions.

18. Since preliminary objection has been raised to the territorial jurisdiction of this Court, I would first decide the said objection. In this context, Petitioners place reliance on Clause 9 of the respective Contract Agreements to contend that by incorporating the exclusive jurisdiction clause, parties have voluntarily and consciously conferred jurisdiction on the Courts at Delhi to the exclusion of all other Courts, besides arguing that Contract Agreements were executed at Delhi and registered office of the Respondent is at Delhi. For ease of reference, Clause 9 is extracted hereunder:-

***“9. Governing Law and Jurisdiction***

*This agreement shall be governed by laws of India and the Parties hereby agree to submit to the exclusive jurisdiction of the district courts in Delhi, in respect of any matter arising out of this Agreement.”*

19. General principles applicable for determining the territorial jurisdiction of a Court in proceedings arising under the 1996 Act are fossilized. Where seat of arbitration is designated, Court having territorial jurisdiction over the designated seat alone would have jurisdiction to deal



with matters relating to arbitration. Where no seat is specified in the arbitration agreement, but venue or place is and there is no contrary indicia, the venue/place is the juridical seat and Court having territorial jurisdiction on the place or venue of arbitration will be the only Court competent to entertain petitions relating to arbitration proceedings under the 1996 Act. In either of the two eventualities, existence of exclusive jurisdiction clause in the contract vesting jurisdiction in Courts elsewhere will not make a difference. [*Ref.: Yassh Deep Builders LLP v. Sushil Kumar Singh and Another, 2024 SCC OnLine Del 1547; Mr. Raman Deep Singh Taneja v. Crown Realtech Private Limited, 2017 SCC OnLine Del 11966; My Preferred Transformation and Hospitality Pvt. Ltd. v. Sumithra Inn, 2021 SCC OnLine Del 1536*].

20. It is equally settled that *sans* designation of seat or venue under Section 20(1) or determination under Section 20(2) of 1996 Act, determination of the territorial jurisdiction of the Court is governed by provisions of Sections 16 to 20 CPC for deciding an application under Section 11 of the 1996 Act. Section 20 provides that subject to limitations provided in Sections 15 to 19, every suit shall be instituted in a Court within the local limits of whose jurisdiction, the Defendant, at the time of commencement of the suit, actually and voluntarily resides or carries on business or personally works for gain or the cause of action, wholly or in part, arises.

21. In *Swastik Gases (supra)*, the short question before the Supreme Court was whether the Calcutta High Court had exclusive jurisdiction in respect of a petition under Section 11 of 1996 Act. Clause 18 of the Agreement provided that the agreement shall be subject to jurisdiction of the



Courts at Kolkata. There was no clause designating seat or venue. Contention of the Appellant was that even though Clause 18 conferred jurisdiction on Courts at Kolkata, it did not specifically bar jurisdiction of Courts at Jaipur, where also part of cause of action had arisen. On the other hand, it was contended on behalf of the Respondent that parties clearly intended to exclude jurisdiction of all Courts other than Kolkata by incorporating Clause 18. Examining the rival submissions, the Supreme Court held as follows:-

*“11. Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286] is one of the earlier cases of this Court wherein this Court highlighted that where two courts have territorial jurisdiction to try the dispute between the parties and the parties have agreed that dispute should be tried by only one of them, the court mentioned in the agreement shall have jurisdiction. This principle has been followed in many subsequent decisions.*

*12. In Globe Transport [Globe Transport Corpn. v. Triveni Engg. Works, (1983) 4 SCC 707] while dealing with the jurisdiction clause which read, “the court in Jaipur City alone shall have jurisdiction in respect of all claims and matters arising (sic) under the consignment or of the goods entrusted for transportation”, this Court held that the jurisdiction clause in the agreement was valid and effective and the courts at Jaipur only had jurisdiction and not the courts at Allahabad which had jurisdiction over Naini where goods were to be delivered and were in fact delivered.*

*13. In A.B.C. Laminart [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163], this Court was concerned with Clause 11 in the agreement which read, “any dispute arising out of this sale shall be subject to Kaira jurisdiction”. The disputes having arisen out of the contract between the parties, the respondents therein filed a suit for recovery of amount against the appellants therein and also claimed damages in the Court of the Subordinate Judge at Salem. The appellants, inter alia, raised the preliminary objection that the Subordinate Judge at Salem had no jurisdiction to entertain the suit as parties by express contract had agreed to confer exclusive jurisdiction in regard to all disputes arising out of the contract on the Civil Court at Kaira. When the matter reached this Court, one of the questions for consideration was whether the Court at Salem had jurisdiction to entertain or try the suit. While dealing with this question, it was stated by this Court that the jurisdiction of the court in the matter of contract would depend on the situs*



*of the contract and the cause of action arising through connecting factors. The Court referred to Sections 23 and 28 of the Contract Act, 1872 (for short “the Contract Act”) and Section 20(c) of the Civil Procedure Code (for short “the Code”) and also referred to Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286] and in para 21 of the Report held as under: (A.B.C. Laminart case [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163], SCC pp. 175-76)*

*“21. ... When the clause is clear, unambiguous and specific accepted notions of contract would bind the parties and unless the absence of ad idem can be shown, the other courts should avoid exercising jurisdiction. As regards construction of the ouster clause when words like ‘alone’, ‘only’, ‘exclusive’ and the like have been used there may be no difficulty. Even without such words in appropriate cases the maxim expressio unius est exclusio alterius—expression of one is the exclusion of another—may be applied. What is an appropriate case shall depend on the facts of the case. In such a case mention of one thing may imply exclusion of another. When certain jurisdiction is specified in a contract an intention to exclude all others from its operation may in such cases be inferred. It has therefore to be properly construed.”*

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*17. Likewise, in Shriram City [Shriram City Union Finance Corpn. Ltd. v. Rama Mishra, (2002) 9 SCC 613], the legal position stated in Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286] was reiterated. In that case, Clause 34 of the lease agreement read, “subject to the provisions of Clause 32 above it is expressly agreed by and between the parties hereinabove that any suit, application and/or any other legal proceedings with regard to any matter, claims, differences and for disputes arising out of this agreement shall be filed and referred to the courts in Calcutta for the purpose of jurisdiction”. This Court held that Clause 34 left no room for doubt that the parties had expressly agreed between themselves that any suit, application or any other legal proceedings with regard to any matter, claim, differences and disputes arising out of this claim shall only be filed in the courts in Calcutta. Whilst drawing difference between inherent lack of jurisdiction of a court on account of some statute and the other where parties through agreement bind themselves to have their dispute decided by any one of the courts having jurisdiction, the Court said: (Shriram City case [Shriram City Union Finance Corpn. Ltd. v. Rama Mishra, (2002) 9 SCC 613], SCC pp. 616-17, para 9)*

*“9. ... It is open for a party for his convenience to fix the jurisdiction of any competent court to have their dispute adjudicated by that court alone. In other words, if one or more courts have the jurisdiction to*





*try any suit, it is open for the parties to choose any one of the two competent courts to decide their disputes. In case parties under their own agreement expressly agree that their dispute shall be tried by only one of them then the parties can only file the suit in that court alone to which they have so agreed. In the present case, as we have said, through Clause 34 of the agreement, the parties have bound themselves that in any matter arising between them under the said contract, it is the courts in Calcutta alone which will have jurisdiction. Once parties bound themselves as such it is not open for them to choose a different jurisdiction as in the present case by filing the suit at Bhubaneshwar. Such a suit would be in violation of the said agreement.”*

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**27.** *In a comparatively recent decision in A.V.M. Sales [A.V.M. Sales Corpn. v. Anuradha Chemicals (P) Ltd., (2012) 2 SCC 315 : (2012) 1 SCC (Civ) 809] , the terms of the agreement contained the clause, “any dispute arising out of this agreement will be subject to Calcutta jurisdiction only”. The respondent before this Court had filed a suit at Vijayawada for recovery of dues from the petitioner while the petitioner had filed a suit for recovery of its alleged dues from the respondent in Calcutta High Court. One of the questions under consideration before this Court was whether the court at Vijayawada had no jurisdiction to entertain the suit on account of exclusion clause in the agreement. Having regard to the facts obtaining in the case, this Court first held that both the courts within the jurisdiction of Calcutta and Vijayawada had jurisdiction to try the suit. Then it was held that in view of the exclusion clause in the agreement, the jurisdiction of courts at Vijayawada would stand ousted.*

**28.** *Section 11(12)(b) of the 1996 Act provides that where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in an arbitration other than the international commercial arbitration, the reference to “Chief Justice” in those sub-sections shall be construed as a reference to the Chief Justice of the High Court within whose local limits the Principal Civil Court referred to in Section 2(1)(e) is situate, and where the High Court itself is the court referred to in clause (e) of sub-section (1) of Section 2, to the Chief Justice of that High Court. Clause (e) of sub-section (1) of Section 2 defines “court” which means the Principal Civil Court of Original Jurisdiction in a district, and includes the High Court in exercise of its ordinary civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such Principal Civil Court, or any Court of Small Causes.*

**29.** *When it comes to the question of territorial jurisdiction relating to*





*the application under Section 11, besides the above legislative provisions, Section 20 of the Code is relevant. Section 20 of the Code states that subject to the limitations provided in Sections 15 to 19, every suit shall be instituted in a court within the local limits of whose jurisdiction:*

*(a) the defendant, or each of the defendants where there are more than one, at the time of commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*

*(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or*

*(c) the cause of action, wholly or in part arises.*

**30.** *The Explanation appended to Section 20 clarifies that a corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.*

**31.** *In the instant case, the appellant does not dispute that part of cause of action has arisen in Kolkata. What appellant says is that part of cause of action has also arisen in Jaipur and, therefore, the Chief Justice of the Rajasthan High Court or the designate Judge has jurisdiction to consider the application made by the appellant for the appointment of an arbitrator under Section 11. Having regard to Section 11(12)(b) and Section 2(e) of the 1996 Act read with Section 20(c) of the Code, there remains no doubt that the Chief Justice or the designate Judge of the Rajasthan High Court has jurisdiction in the matter. The question is, whether parties by virtue of Clause 18 of the agreement have agreed to exclude the jurisdiction of the courts at Jaipur or, in other words, whether in view of Clause 18 of the agreement, the jurisdiction of the Chief Justice of the Rajasthan High Court has been excluded?*

**32.** *For answer to the above question, we have to see the effect of the jurisdiction clause in the agreement which provides that the agreement shall be subject to jurisdiction of the courts at Kolkata. It is a fact that whilst providing for jurisdiction clause in the agreement the words like “alone”, “only”, “exclusive” or “exclusive jurisdiction” have not been used but this, in our view, is not decisive and does not make any material difference. The intention of the parties—by having Clause 18 in the agreement—is clear and unambiguous that the courts at Kolkata shall have jurisdiction which means that the courts at Kolkata alone shall have jurisdiction. It is so because for construction of jurisdiction clause, like*



*Clause 18 in the agreement, the maxim expressio unius est exclusio alterius comes into play as there is nothing to indicate to the contrary. This legal maxim means that expression of one is the exclusion of another. By making a provision that the agreement is subject to the jurisdiction of the courts at Kolkata, the parties have impliedly excluded the jurisdiction of other courts. Where the contract specifies the jurisdiction of the courts at a particular place and such courts have jurisdiction to deal with the matter, we think that an inference may be drawn that parties intended to exclude all other courts. A clause like this is not hit by Section 23 of the Contract Act at all. Such clause is neither forbidden by law nor it is against the public policy. It does not offend Section 28 of the Contract Act in any manner.”*

22. In ***Kings Chariot Through its Sole Proprietor Mrs. Neelima Suri v. Tarun Wadhwa, 2024 SCC OnLine Del 4039***, this Court was dealing with a case where arbitration clause was silent on seat/venue/place and the agreement incorporated a clause conferring exclusive jurisdiction on Courts at Delhi. Dismissing the petition under Section 11 of the 1996 Act, it was held that there was no confusion that for purpose of arbitration, even if no part of cause of action has arisen in a place, parties can agree on a seat of jurisdiction, however, if parties do not so agree, then the jurisdiction of the Court is determined in accordance with Sections 16 to 20 CPC and since entire cause of action had arisen in Madhya Pradesh, only that Court would have jurisdiction to entertain the petition.

23. Coming to the present case, indisputably, there is no designation of seat, place or venue, assuming Clauses 42, 25 and 29 can be construed as arbitration clauses. Therefore, territorial jurisdiction of this Court will be tested on the anvil of the principles underlying Section 20 CPC and thus it is to be examined whether Respondent actually ‘carries on business’ within the territorial boundaries of this Court or ‘cause of action’, wholly or partly, has arisen at Delhi. Section 20 is extracted hereunder for ready reference:-



***“20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—***

*(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*

*(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or*

*(c) the cause of action, wholly or in part, arises.*

*Explanation.—A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”*

24. Indisputably, the subject matter of the disputes between the parties are construction contracts awarded to the Petitioners for projects at Gurugram, Haryana and as noted above, disputes pertain to non-performance/breach of the contracts, plant and machinery, equipment, non-payment of dues etc. No part of the contracts has been executed at Delhi and no transaction has taken place here. Project sites are at Gurugram, plant and machinery and equipment were installed at Gurugram and no material has been placed on record to evidence even part performance of the contracts at Delhi. Petitioners are not right in pleading that Contract Agreements as also the Work Orders were executed at Delhi. A bare perusal of the Agreements would show their execution at Gurugram and the stamp duty was also paid in Haryana. Therefore, not even a miniscule part of cause of action has arisen at Delhi.

25. In ***Ravi Ranjan Developers Pvt. Ltd. v. Aditya Kumar Chatterjee,***



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**2022 SCC OnLine SC 568**, the question before the Supreme Court was whether Calcutta High Court had jurisdiction to entertain the petition filed by the Respondent under Section 11 of the 1996 Act. The question was answered in the negative for the reason that the Development Agreement was executed and registered outside the jurisdiction of the High Court of Calcutta; Agreement pertained to development of property located in Mujaffarpur and Appellant/Respondent in the Section 11 petition has its Registered Office in Patna. It was held that no part of cause of action has arisen within the jurisdiction of Calcutta High Court and that a petition under Section 11(6) cannot be moved in any High Court in India, irrespective of its territorial jurisdiction. It could never be the intention of Section 11(6) that arbitration proceedings should be initiated in any High Court irrespective of whether Respondent resided or carried on business within the jurisdiction of that Court or cause of action, wholly or in part, had arisen within that Court's jurisdiction.

26. Petitioners also claim jurisdiction of this Court primarily on the ground that the Registered Office of the Respondent is at Delhi. In my view, this contention is untenable in law. A plain reading of Explanation to Section 20 CPC shows that it is in two parts and applies in a case where the Defendant/Respondent is a Corporation, which term means and includes a Company. It needs no reiteration that where the Corporation has a sole or principal office at a particular place, the Courts within whose jurisdiction the sole or principal office is located will have jurisdiction as by deeming fiction of law, Corporation is deemed to carry on business at this office. The second part of the Explanation applies to a case where the Defendant does not have a sole office but has a principal office in one place i.e. the Registered Office



and a subordinate office at another place. In such a situation, it is trite that the location of the subordinate office, within the local limits of which cause of action arises, will be the place for filing the suit and not the principal place of business. In this context, I may allude to observations of the Supreme Court in ***Patel Roadways (supra)*** as follows:-

*“9. Clauses (a) and (b) of Section 20 inter alia refer to a court within the local limits of whose jurisdiction the defendant inter alia “carries on business”. Clause (c) on the other hand refers to a court within the local limits of whose jurisdiction the cause of action wholly or in part arises. It has not been urged before us on behalf of the appellant that the cause of action wholly or in part arose in Bombay. Consequently clause (c) is not attracted to the facts of these cases. What has been urged with the aid of the Explanation to Section 20 of the Code is that since the appellant has its principal office in Bombay it shall be deemed to carry on business at Bombay and consequently the courts at Bombay will also have jurisdiction. On a plain reading of the Explanation to Section 20 of the Code we find an apparent fallacy in the aforesaid argument. The Explanation is in two parts, one before the word “or” occurring between the words “office in India” and the word “in respect of” and the other thereafter. The Explanation applies to a defendant which is a corporation, which term, as seen above, would include even a company such as the appellant in the instant case. The first part of the Explanation applies only to such a corporation which has its sole or principal office at a particular place. In that event the courts within whose jurisdiction the sole or principal office of the defendant is situate will also have jurisdiction inasmuch as even if the defendant may not be actually carrying on business at that place, it will “be deemed to carry on business” at that place because of the fiction created by the Explanation. The latter part of the Explanation takes care of a case where the defendant does not have a sole office but has a principal office at one place and has also a subordinate office at another place. The words “at such place” occurring at the end of the Explanation and the word “or” referred to above which is disjunctive clearly suggest that if the case falls within the latter part of the Explanation it is not the court within whose jurisdiction the principal office of the defendant is situate but the court within whose jurisdiction it has a subordinate office which alone shall have jurisdiction “in respect of any cause of action arising at any place where it has also a subordinate office”.*

*10. Here we may point out that the view which we take finds support from a circumstance which, in our opinion, is relevant. Section 20 of the Code before its amendment by the Code of Civil Procedure (Amendment) Act,*





1976 had two Explanations being Explanations I and II. By the Amendment Act Explanation I was omitted and Explanation II was renumbered as the present Explanation. Explanation I so omitted read as hereunder:

*“Explanation I.— Where a person has a permanent dwelling at one place and also temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.”*

*11. This Explanation dealt with the case of place of residence of the defendant and provided with regard to a person having a permanent dwelling at one place and also temporary at another place that such person shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence. The language used in Explanation II on the other hand which is the present Explanation was entirely different. Had the intention been that if a corporation had its principal office at one place and a subordinate office at another place and the cause of action arose at the place where it had its subordinate office it shall be deemed to be carrying on business at both places the language used in Explanation II would have been identical to that of Explanation I which was dealing with a case of a person having a permanent dwelling at one place and also temporary residence at another place. The marked difference in the language of the two Explanations clearly supports the view which we have taken with regard to the interpretation of the present Explanation to Section 20 of the Code which was Explanation II earlier as indicated above.*

*12. We would also like to add that the interpretation sought to be placed by the appellant on the provision in question renders the Explanation totally redundant. If the intention of the legislature was, as is said on their behalf, that a suit against a corporation could be instituted either at the place of its sole or principal office (whether or not the corporation carries on business at that place) or at any other place where the cause of action arises, the provisions of clauses (a), (b) and (c) together with the first part of the Explanation would have completely achieved the purpose. Indeed the effect would have been wider. The suit could have been instituted at the place of the principal office because of the situation of such office (whether or not any actual business was carried on there). Alternatively, a suit could have been instituted at the place where the cause of action arose under clause (c) (irrespective of whether the corporation had a subordinate office in such place or not). This was, therefore, not the purpose of the Explanation. The Explanation is really an Explanation to clause (a). It is in the nature of a clarification on the scope of clause (a) viz. as to where the corporation can be said to carry on business. This, it is clarified, will be the place where the principal office is situated (whether or not any business actually is carried on there) or the place where a*





*business is carried on giving rise to a cause of action (even though the principal office of the corporation is not located there) so long as there is a subordinate office of the corporation situated at such place. The linking together of the place where the cause of action arises with the place where a subordinate office is located clearly shows that the intention of the legislature was that, in the case of a corporation, for the purposes of clause (a), the location of the subordinate office, within the local limits of which a cause of action arises, is to be the relevant place for the filing of a suit and not the principal place of business. If the intention was that the location of the sole or principal office as well as the location of the subordinate office (within the limits of which a cause of action arises) are to be deemed to be places where the corporation is deemed to be carrying on business, the disjunctive “or” will not be there. Instead, the second part of the Explanation would have read “and, in respect of any cause of action arising at any place where it has a subordinate office, also at such place”.*

*13. As far as we can see the interpretation which we have placed on this section does not create any practical or undue difficulties or disadvantage either to the plaintiff or a defendant corporation. It is true that, normally, under clauses (a) to (c), the plaintiff has a choice of forum and cannot be compelled to go to the place of residence or business of the corporation and can file a suit at a place where the cause of action arises. If a corporation desires to be protected from being dragged into litigation at some place merely because a cause of action arises there it can save itself from such a situation by an exclusion clause as has been done in the present case. The clear intendment of the Explanation, however, is that, where the corporation has a subordinate office in the place where the cause of action arises, it cannot be heard to say that it cannot be sued there because it does not carry on business at that place. It would be a great hardship if, in spite of the corporation having a subordinate office at the place where the cause of action arises (with which in all probability the plaintiff has had dealings), such plaintiff is to be compelled to travel to the place where the corporation has its principal place. That place should be convenient to the plaintiff; and since the corporation has an office at such place, it will also be under no disadvantage. Thus the Explanation provides an alternative locus for the corporation's place of business, not an additional one.*

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*15. In this view of the matter since in the instant two cases clause (c) is not attracted to confer jurisdiction on courts at Bombay and the appellant has admittedly its subordinate offices at the respective places where the goods in these two cases were delivered to it for purposes of transport the courts at Bombay had no jurisdiction at all to entertain the suits filed by the respondents and the parties could not confer jurisdiction on the courts at Bombay by an agreement. Accordingly no exception can be taken to the*



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*findings in this behalf recorded by the trial court and the High Court in these two cases.”*

27. This issue also came up for consideration before the Division Bench of this Court in ***Ultra Home (supra)***. In the said case, Appellant/Plaintiff had invoked the jurisdiction of this Court on the ground that principal office (Registered Office) of the Respondent/Defendant was located at Delhi and therefore, this Court had territorial jurisdiction within the meaning of Section 134(2) of Trade Marks Act, 1999 and Section 62(2) of the Copyright Act, 1957. Learned Single Judge held that the Court had no territorial jurisdiction and dismissed the suit placing reliance on the judgment of the Supreme Court in ***Indian Performing Rights Society Limited v. Sanjay Dalia and Another, (2015) 10 SCC 161***. The Division Bench dismissed the appeal holding that for the purpose of Section 20 CPC, a Company having both a principal office and a subordinate office at different places would be deemed to be carrying on business at either of the two places but not at both and if the cause of action arose at the place of the subordinate office, then the Company would be deemed to be carrying on business at that place alone. On the other hand, if cause of action did not arise at the place of subordinate office, then the Company would be deemed to be carrying on business at the place of principal office. Relevant passages from the judgment are as follows:-

*“5. It is evident that the appellant/plaintiff had invoked the jurisdiction of this court on the ground that its principal office (registered office) was located in Delhi and that, therefore, it carried on business in Delhi. Consequently, it was stated that this court has territorial jurisdiction within the meaning of section 134(2) of the Trade Marks Act, 1999 and also under section 62(2) of the Copyright Act, 1957 and the Code of Civil Procedure, 1908. The learned single judge, placing reliance on the recent decision of the Supreme Court in Indian Performing Rights Society*



*Ltd. v. Sanjay Dalia : (2015) 10 SCC 161, disagreed. The learned single judge also observed as under : -*

*“7. I may note that it is conceded on behalf of the plaintiff that at the place where the defendants are infringing the trademark at the ocre, Jharkhand, plaintiff has a hotel, and if the plaintiff as a hotel can surely the plaintiff is carrying on business at that particular place and carrying on of the hotel business is very much a part of carrying on of the business of the plaintiff and therefore the ratio of the judgement in Indian Performing Rights Society Ltd's case (supra) clearly applies. The plaintiff is running the hotel with the Clark-Inn Hotel Group i.e. plaintiff company does have a share in the profits and losses in the hotel which is being run along with the Clark-Inn Hotel Group at the Deogarh, Jharkhand. Once that is so, there is a running business and plaintiff is therefore carrying on business at Deogarh, Jharkhand, and consequently the ratio of the judgement in the case of Indian performing rights Society Ltd. (supra) applies and hence this court would not have territorial jurisdiction.”*

*6. The learned counsel for the appellant/plaintiff submitted that the learned single judge had not correctly appreciated the finding and the ratio of the decision of the Supreme Court in the case of Sanjay Dalia (supra). It was contended that the Supreme Court did not hold that the jurisdiction of the court where the principal place of business or the registered office of the proprietor of the registered trademark and that of the copyright was situated would be ousted if the cause of action had arisen at another place where the plaintiff also had some activities. It was contended that the learned single judge erred in dismissing the suit of the plaintiff/appellant and in holding that this court did not have territorial jurisdiction although the registered office of the appellant/plaintiff was located in Delhi, merely on the ground that the appellant/plaintiff owned a hotel named “AMRAPALI CLARKS INN” at Deogarh, the place where the cause of action arose. Placing reliance on the Supreme Court decision in Dhoda House v. SK Maingi : (2006) 9 SCC 41 it was contended that merely owning a hotel at a place would not mean the carrying on of business at that place. It was submitted that even though the appellant/plaintiff has a hotel at Deogarh, Jharkhand it cannot be said that it is carrying on business at Deogarh, Jharkhand. It was also contended that the learned single judge had erred in law in dismissing the suit in limine. It was submitted that the learned single judge, if he found that this court did not have the territorial jurisdiction to entertain the suit, could only have returned the plaint to the appellant/plaintiff for filing before a court of competent jurisdiction and the suit could not have been dismissed in limine.*

*7. The learned counsel appearing on behalf of the respondents submitted that the learned single judge had correctly held that this court does not*



have territorial jurisdiction for entertaining the suit. It was contended that the appellant/plaintiff had clearly admitted that it was carrying on business at Deogarh, Jharkhand inasmuch as it had a hotel, albeit in collaboration with Clarks Inn, at that place. It was also admitted that the alleged cause of action had arisen at Deogarh, Jharkhand because it was alleged that the defendants/respondents had established a residential project at that place by the name of “AMBAPALI GREEN”. All the respondents, as would be evident from the memo of parties itself, reside and/or carry on business at Deogarh, Jharkhand. Therefore, it is Deogarh, Jharkhand where the suit could have been filed and not Delhi since no part of the cause of action arose in Delhi. The mere fact that the appellant/plaintiff had its principal office (registered office) in Delhi would not enable it to file the suit in Delhi because the cause of action arose at Deogarh which was a place where it carried on its business. It was submitted that the learned single judge had correctly understood and applied the ratio of the supreme court decision in *Sanjay Dalia* (supra).

8. It would be necessary to set out the relevant provisions of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘the code’), the Trade Marks Act, 1999 and the Copyright Act, 1957. They are as under : -

Section 20 of the Code of Civil Procedure, 1908:

**“20. Other suits to be instituted where defendants reside or cause of action arises.**—Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

**Explanation.—A corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.”**

(underlining added)

Section 134 of the Trade Marks Act, 1999 : -



**“134. Suit for infringement, etc. to be instituted before District Court.—(1) No suit—**

**(a) for the infringement of a registered trade mark; or**

**(b) relating to any right in a registered trade mark; or**

**(c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered, shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.**

**(2) For the purpose of clauses (a) and (b) of subsection (1), a “District Court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, include a District Court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or proceeding, or, where there are more than one such persons any of them, actually and voluntarily resides or carries on business or personally works for gain.**

**Explanation.—For the purposes of sub-section (2), “person” includes the registered proprietor and the registered user.”**

*(underlining added)*

**Section 62 of the Copyright Act, 1957 : -**

**“62. Jurisdiction of court over matters arising under this Chapter.—**

**(1) Every suit or other civil proceeding arising under this Chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction.**

**(2) For the purpose of sub-section (1), a “district court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, include a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such persons, any of them actually and voluntarily resides or carries on business or personally works for gain.”**

*(underlining added)*

**9. On examining the provisions of section 20 of the code, it is evident that a defendant could be sued inter alia where the defendant carried on business. If the defendant was a corporation (which expression includes a**





company), by virtue of the explanation after clause (c), it would be deemed to carry on business : -

- (1) if it had a sole office in India then at the place of the sole office;
- (2) if it had a principal office at one place as well as a subordinate office at another place then : -
  - (i) in case the cause of action arose at the place of the subordinate place, at that place; or
  - (ii) in case no part of the cause of action arose at the place of the subordinate office, at the place of the principal office.

10. This position was explained in *Patel Roadways Ltd. v. Prasad Trading Co.* : (1991) 4 SCC 270, as follows : -

*“12. We would also like to add that the interpretation sought to be placed by the appellant on the provision in question renders the Explanation totally redundant. If the intention of the legislature was, as is said on their behalf, that a suit against a corporation could be instituted either at the place of its sole or principal office (whether or not the corporation carries on business at that place) or at any other place where the cause of action arises, the provisions of clauses (a), (b) and (c) together with the first part of the Explanation would have completely achieved the purpose. Indeed the effect would have been wider. The suit could have been instituted at the place of the principal office because of the situation of such office (whether or not any actual business was carried on there). Alternatively, a suit could have been instituted at the place where the cause of action arose under clause (c) (irrespective of whether the corporation had a subordinate office in such place or not). This was, therefore, not the purpose of the Explanation. The Explanation is really an Explanation to clause (a). It is in the nature of a clarification on the scope of clause (a) viz. as to where the corporation can be said to carry on business. This, it is clarified, will be the place where the principal office is situated (whether or not any business actually is carried on there) or the place where a business is carried on giving rise to a cause of action (even though the principal office of the corporation is not located there) so long as there is a subordinate office of the corporation situated at such place. The linking together of the place where the cause of action arises with the place where a subordinate office is located clearly shows that the intention of the legislature was that, in the case of a corporation, for the purposes of clause (a), the location of the subordinate office, within the local limits of which a cause of action arises, is to be the relevant place for the filing of a suit and not the principal place of business. If the intention was that the location of the sole or principal office as well as the location of the subordinate office*





(within the limits of which a cause of action arises) are to be deemed to be places where the corporation is deemed to be carrying on business, the disjunctive “or” will not be there. Instead, the second part of the Explanation would have read “and, in respect of any cause of action arising at any place where it has a subordinate office, also at such place”.

13. As far as we can see the interpretation which we have placed on this section does not create any practical or undue difficulties or disadvantage either to the plaintiff or a defendant corporation. It is true that, normally, under clauses (a) to (c), the plaintiff has a choice of forum and cannot be compelled to go to the place of residence or business of the corporation and can file a suit at a place where the cause of action arises. If a corporation desires to be protected from being dragged into litigation at some place merely because a cause of action arises there it can save itself from such a situation by an exclusion clause as has been done in the present case. The clear intendment of the Explanation, however, is that, where the corporation has a subordinate office in the place where the cause of action arises, it cannot be heard to say that it cannot be sued there because it does not carry on business at that place. It would be a great hardship if, in spite of the corporation having a subordinate office at the place where the cause of action arises (with which in all probability the plaintiff has had dealings), such plaintiff is to be compelled to travel to the place where the corporation has its principal place. That place should be convenient to the plaintiff; and since the corporation has an office at such place, it will also be under no disadvantage. Thus the Explanation provides an alternative locus for the corporation's place of business, not an additional one.

(underlining added)

11. This view was endorsed in *New Moga Transport Co. v. United India Insurance Co. Ltd* : (2004) 4 SCC 677 as follows:

“9. Normally, under clauses (a) to (c) the plaintiff has a choice of forum and cannot be compelled to go to the place of residence or business of the defendant and can file a suit at a place where the cause of action arises. If the defendant desires to be protected from being dragged into a litigation at some place merely because the cause of action arises there it can save itself from such a situation by an exclusion clause. The clear intendment of the Explanation, however, is that where the corporation has a subordinate office in the place where the cause of action arises it cannot be heard to say that it cannot be sued there because it does not carry on business at that place. Clauses (a) and (b) of Section 20 inter alia refer to a court within the local limits of whose jurisdiction the defendant inter alia



“carries on business”. Clause (c) on the other hand refers to a court within the local limits of whose jurisdiction the cause of action wholly or in part arises.

10. On a plain reading of the Explanation to Section 20 CPC it is clear that the Explanation consists of two parts : (i) before the word “or” appearing between the words “office in India” and the words “in respect of”, and (ii) the other thereafter. The Explanation applies to a defendant which is a corporation, which term would include even a company. The first part of the Explanation applies only to such corporation which has its sole or principal office at a particular place. In that event, the court within whose jurisdiction the sole or principal office of the company is situate will also have jurisdiction inasmuch as even if the defendant may not actually be carrying on business at that place, it will be deemed to carry on business at that place because of the fiction created by the Explanation. The latter part of the Explanation takes care of a case where the defendant does not have a sole office but has a principal office at one place and has also a subordinate office at another place. **The expression “at such place” appearing in the Explanation and the word “or” which is disjunctive clearly suggest that if the case falls within the latter part of the Explanation it is not the court within whose jurisdiction the principal office of the defendant is situate but the court within whose jurisdiction it has a subordinate office which alone has the jurisdiction “in respect of any cause of action arising at any place where it has also a subordinate office”.**

11. Section 20, before the amendment of CPC in 1976, had two Explanations being Explanations I and II. By the Amendment Act, Explanation I was omitted and Explanation II was renumbered as the present Explanation. Explanation which was omitted reads as follows:

“Explanation I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.”

12. This Explanation dealt with the case of place of residence of the defendant and provided with regard to a person having a permanent dwelling at one place and also temporary at another place, that such person shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence. The language used in Explanation II, on the other hand, which is the present Explanation, was entirely different. **Had the intention been that if a corporation had its principal office at one place and a subordinate office at another place and the cause of action arose at the place where it had its subordinate office it shall**



*be deemed to be carrying on business at both places, the language used in Explanation II would have been identical to that of Explanation I which was dealing with a case of a person having a permanent dwelling at one place and also temporary residence at another place.*”

(underlining added)

*12. Thus, for the purpose of section 20 of the Code, a company having both a principal office and a subordinate office at a different place would be deemed to carry on business either at the principal office or at the place of the subordinate office but not at both places. If the cause of action arose at the place of the subordinate office then the company would be deemed to carry on business at the place of the subordinate office alone. On the other hand, if the cause of action did not arise at the place of the subordinate office then the company would be deemed to carry on business at the place of its principal office.”*

28. Applying the aforesaid judgments to the present cases, merely because the Registered Office of the Respondent is in Delhi, this Court will not have jurisdiction since no cause of action has arisen at the Registered Office and Respondent will be deemed to be carrying on business at its Corporate Office located in Gurugram and this contention of the Petitioners also merits rejection.

29. Coming to the only other argument of the Petitioners that this Court has territorial jurisdiction owing to Clause 9, which is the exclusive jurisdiction clause, I am of the view that this contention cannot be accepted. It is a settled law that exclusive jurisdiction clauses are construed as ouster clauses and as held by the Supreme Court in **Swastik Gases (supra)**, even if words like ‘alone’, ‘only’, ‘exclusive’ or ‘exclusive jurisdiction’ have not been used in the agreement, it will make no material difference because of the maxim *expressio unius est exclusio alterius*, if there is nothing in the agreement to indicate to the contrary. However, exclusive jurisdiction clause will be valid and effective only with respect to a Court which otherwise has



jurisdiction in the matter. In this context, I may refer to few passages from the judgment in ***Swastik Gases (supra)*** as follows:-

*“7. We have heard Mr Uday Gupta, learned counsel for the appellant and Mr Sidharth Luthra, learned Additional Solicitor General for the Company. The learned Additional Solicitor General and the learned counsel for the appellant have cited many decisions of this Court in support of their respective arguments. Before we refer to these decisions, it is apposite that we refer to the two clauses of the agreement which deal with arbitration and jurisdiction. Clause 17 of the agreement is an arbitration clause which reads as under:*

*17. Arbitration*

*If any dispute or difference(s) of any kind whatsoever shall arise between the parties hereto in connection with or arising out of this agreement, the parties hereto shall in good faith negotiate with a view to arriving at an amicable resolution and settlement. In the event no settlement is reached within a period of 30 days from the date of arising of the dispute(s)/difference(s), such dispute(s)/difference(s) shall be referred to 2 (two) arbitrators, appointed one each by the parties and the arbitrators, so appointed shall be entitled to appoint a third arbitrator who shall act as a presiding arbitrator and the proceedings thereof shall be in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof in force. The existence of any dispute(s)/difference(s) or initiation/continuation of arbitration proceedings shall not permit the parties to postpone or delay the performance of or to abstain from performing their obligations pursuant to this agreement.*

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*9. The contention of the learned counsel for the appellant is that even though Clause 18 confers jurisdiction to entertain disputes inter se parties at Kolkata, it does not specifically bar jurisdiction of courts at Jaipur where also part of the cause of action has arisen. It is the submission of the learned counsel that except execution of the agreement, which was done at Kolkata, though it was signed at Jaipur, all other necessary bundle of facts forming “cause of action” have arisen at Jaipur. This is for the reason that:*

- (i) the regional office of the respondent Company is situate at Jaipur;*
- (ii) the agreement was signed at Jaipur;*
- (iii) the consignment agency functioned from Jaipur;*
- (iv) all stock of lubricants was delivered by the Company to the appellant at Jaipur;*



- (v) all sales transactions took place at Jaipur;
- (vi) the godown, showroom and office of the appellant were all situated in Jaipur;
- (vii) various meetings were held between the parties at Jaipur;
- (viii) the Company agreed to lift the stock and make payment in lieu thereof at a meeting held at Jaipur, and
- (ix) the disputes arose at Jaipur.

The learned counsel for the appellant would submit that since part of the cause of action has arisen within the jurisdiction of the courts at Jaipur and Clause 18 does not expressly oust the jurisdiction of other courts, the Rajasthan High Court had territorial jurisdiction to try and entertain the petition under Section 11 of the 1996 Act. He vehemently contended that Clause 18 of the agreement cannot be construed as an ouster clause because the words like “alone”, “only”, “exclusive” and “exclusive jurisdiction” have not been used in the clause.

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**11.** *Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286]* is one of the earlier cases of this Court wherein this Court highlighted that where two courts have territorial jurisdiction to try the dispute between the parties and the parties have agreed that dispute should be tried by only one of them, the court mentioned in the agreement shall have jurisdiction. This principle has been followed in many subsequent decisions.

**12.** *In Globe Transport [Globe Transport Corpn. v. Triveni Engg. Works, (1983) 4 SCC 707]* while dealing with the jurisdiction clause which read, “the court in Jaipur City alone shall have jurisdiction in respect of all claims and matters arising (sic) under the consignment or of the goods entrusted for transportation”, this Court held that the jurisdiction clause in the agreement was valid and effective and the courts at Jaipur only had jurisdiction and not the courts at Allahabad which had jurisdiction over Naini where goods were to be delivered and were in fact delivered.

**13.** *In A.B.C. Laminart [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163]*, this Court was concerned with Clause 11 in the agreement which read, “any dispute arising out of this sale shall be subject to Kaira jurisdiction”. The disputes having arisen out of the contract between the parties, the respondents therein filed a suit for recovery of amount against the appellants therein and also claimed damages in the Court of the Subordinate Judge at Salem. The appellants, inter alia, raised the preliminary objection that the Subordinate Judge at Salem had no jurisdiction to entertain the suit as parties by express contract had agreed





to confer exclusive jurisdiction in regard to all disputes arising out of the contract on the Civil Court at Kaira. When the matter reached this Court, one of the questions for consideration was whether the Court at Salem had jurisdiction to entertain or try the suit. While dealing with this question, it was stated by this Court that the jurisdiction of the court in the matter of contract would depend on the situs of the contract and the cause of action arising through connecting factors. The Court referred to Sections 23 and 28 of the Contract Act, 1872 (for short “the Contract Act”) and Section 20(c) of the Civil Procedure Code (for short “the Code”) and also referred to *Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286]* and in para 21 of the Report held as under: (*A.B.C. Laminart case [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163]* , SCC pp. 175-76)

“21. ... When the clause is clear, unambiguous and specific accepted notions of contract would bind the parties and unless the absence of *ad idem* can be shown, the other courts should avoid exercising jurisdiction. As regards construction of the ouster clause when words like ‘alone’, ‘only’, ‘exclusive’ and the like have been used there may be no difficulty. Even without such words in appropriate cases the maxim *expressio unius est exclusio alterius*—expression of one is the exclusion of another—may be applied. What is an appropriate case shall depend on the facts of the case. In such a case mention of one thing may imply exclusion of another. When certain jurisdiction is specified in a contract an intention to exclude all others from its operation may in such cases be inferred. It has therefore to be properly construed.”

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21. In *Harshad Chiman Lal Modi [Harshad Chiman Lal Modi v. DLF Universal Ltd., (2005) 7 SCC 791]* , the clause of the plot buyer agreement read, “Delhi High Court or courts subordinate to it, alone shall have jurisdiction in all matters arising out of, touching and/or concerning this transaction.” This Court held that the suit related to specific performance of the contract and possession of immovable property and the only competent court to try such suit was the court where the property was situate and no other court. Since the property was not situated in Delhi, the Delhi Court had no jurisdiction though the agreement provided for jurisdiction of the court at Delhi. This Court found that the agreement conferring jurisdiction on a court not having jurisdiction was not legal, valid and enforceable.

22. In *Rajasthan SEB [Rajasthan SEB v. Universal Petrol Chemicals Ltd., (2009) 3 SCC 107 : (2009) 1 SCC (Civ) 770]* , two clauses under consideration were Clause 30 of the general conditions of the contract and Clause 7 of the bank guarantee. Clause 30 of the general conditions of the





contract stipulated, “the contract shall for all purposes be construed according to the laws of India and subject to jurisdiction only at Jaipur in Rajasthan courts only...” and Clause 7 of the bank guarantee read, “all disputes arising in the said bank guarantee between the Bank and the Board or between the supplier or the Board pertaining to this guarantee shall be subject to the courts only at Jaipur in Rajasthan”. In the light of the above clauses, the question under consideration before this Court was whether Calcutta High Court where an application under Section 20 of the Arbitration Act, 1940 was made had territorial jurisdiction to entertain the petition or not. Following *Hakam Singh [Hakam Singh v. Gammon (India) Ltd., (1971) 1 SCC 286]*, *A.B.C. Laminart [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163]* and *Hanil Era Textiles [Hanil Era Textiles Ltd. v. Puromatic Filters (P) Ltd., (2004) 4 SCC 671]*, this Court in paras 27 and 28 of the Report held as under: (*Rajasthan SEB case [Rajasthan SEB v. Universal Petrol Chemicals Ltd., (2009) 3 SCC 107 : (2009) 1 SCC (Civ) 770]*, SCC pp. 114-15)

“27. The aforesaid legal proposition settled by this Court in respect of territorial jurisdiction and applicability of Section 20 of the Code to the Arbitration Act is clear, unambiguous and explicit. The said position is binding on both the parties who were contesting the present proceeding. Both the parties with their open eyes entered into the aforesaid purchase order and agreements thereon which categorically provide that all disputes arising between the parties out of the agreements would be adjudicated upon and decided through the process of arbitration and that no court other than the court at Jaipur shall have jurisdiction to entertain or try the same. In both the agreements in Clause 30 of the general conditions of the contract it was specifically mentioned that the contract shall for all purposes be construed according to the laws of India and subject to jurisdiction only at Jaipur in Rajasthan courts only and in addition in one of the purchase order the expression used was that the court at Jaipur only would have jurisdiction to entertain or try the same.

28. In the light of the aforesaid facts of the present case, the ratio of all the aforesaid decisions which are referred to hereinbefore would squarely govern and apply to the present case also. There is indeed an ouster clause used in the aforesaid stipulations stating that the courts at Jaipur alone would have jurisdiction to try and decide the said proceedings which could be initiated for adjudication and deciding the disputes arising between the parties with or in relation to the aforesaid agreements through the process of arbitration. In other words, even though otherwise the courts at Calcutta would have territorial jurisdiction to try and decide such disputes, but in view of the ouster clause it is only the courts at Jaipur which would have jurisdiction to entertain such proceeding.”



23. Then, in para 35 of the Report, the Court held as under: (*Rajasthan SEB case [Rajasthan SEB v. Universal Petrol Chemicals Ltd., (2009) 3 SCC 107 : (2009) 1 SCC (Civ) 770]*, SCC p. 116)

*“35. The parties have clearly stipulated and agreed that no other court, but only the court at Jaipur will have jurisdiction to try and decide the proceedings arising out of the said agreements, and therefore, it is the civil court at Jaipur which would alone have jurisdiction to try and decide such issue and that is the court which is competent to entertain such proceedings. The said court being competent to entertain such proceedings, the said court at Jaipur alone would have jurisdiction over the arbitration proceedings and all subsequent applications arising out of the reference. The arbitration proceedings have to be made at Jaipur Court and in no other court.”*

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26. The question in *InterGlobe Aviation [InterGlobe Aviation Ltd. v. N. Satchidanand, (2011) 7 SCC 463 : (2011) 3 SCC (Civ) 747]*, inter alia, was whether the Permanent Lok Adalat at Hyderabad had territorial jurisdiction to deal with the matter. The standard terms which governed the contract between the parties provided, “all disputes shall be subject to the jurisdiction of the courts of Delhi only”. The contention on behalf of the appellant before this Court was that the ticket related to travel from Delhi to Hyderabad. The complaint was in regard to delay at Delhi and, therefore, the cause of action arose at Delhi and that as the contract provided that the courts at Delhi only will have the jurisdiction, the jurisdiction of other courts was ousted. This Court in para 22 of the Report held as under: (SCC pp. 476-77)

*“22. As per the principle laid down in A.B.C. Laminart [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163], any clause which ousts the jurisdiction of all courts having jurisdiction and conferring jurisdiction on a court not otherwise having jurisdiction would be invalid. It is now well settled that the parties cannot by agreement confer jurisdiction on a court which does not have jurisdiction; and that only where two or more courts have the jurisdiction to try a suit or proceeding, an agreement that the disputes shall be tried in one of such courts is not contrary to public policy. The ouster of jurisdiction of some courts is permissible so long as the court on which exclusive jurisdiction is conferred, had jurisdiction. If the clause had been made to apply only where a part of cause of action accrued in Delhi, it would have been valid. But as the clause provides that irrespective of the place of cause of action, only courts at Delhi would have jurisdiction, the said clause is invalid in law, having regard to the principle laid down in A.B.C. Laminart [A.B.C. Laminart (P) Ltd. v. A.P. Agencies, (1989) 2 SCC 163]. The fact that*



*in this case, the place of embarkation happened to be Delhi, would not validate a clause, which is invalid.”*

*27. In a comparatively recent decision in A.V.M. Sales [A.V.M. Sales Corpn. v. Anuradha Chemicals (P) Ltd., (2012) 2 SCC 315 : (2012) 1 SCC (Civ) 809] , the terms of the agreement contained the clause, “any dispute arising out of this agreement will be subject to Calcutta jurisdiction only”. The respondent before this Court had filed a suit at Vijayawada for recovery of dues from the petitioner while the petitioner had filed a suit for recovery of its alleged dues from the respondent in Calcutta High Court. One of the questions under consideration before this Court was whether the court at Vijayawada had no jurisdiction to entertain the suit on account of exclusion clause in the agreement. Having regard to the facts obtaining in the case, this Court first held that both the courts within the jurisdiction of Calcutta and Vijayawada had jurisdiction to try the suit. Then it was held that in view of the exclusion clause in the agreement, the jurisdiction of courts at Vijayawada would stand ousted.*

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*29. When it comes to the question of territorial jurisdiction relating to the application under Section 11, besides the above legislative provisions, Section 20 of the Code is relevant. Section 20 of the Code states that subject to the limitations provided in Sections 15 to 19, every suit shall be instituted in a court within the local limits of whose jurisdiction:*

*(a) the defendant, or each of the defendants where there are more than one, at the time of commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*

*(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or*

*(c) the cause of action, wholly or in part arises.*

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*31. In the instant case, the appellant does not dispute that part of cause of action has arisen in Kolkata. What appellant says is that part of cause of action has also arisen in Jaipur and, therefore, the Chief Justice of the Rajasthan High Court or the designate Judge has jurisdiction to consider the application made by the appellant for the appointment of an arbitrator under Section 11. Having regard to Section 11(12)(b) and Section 2(e) of*



*the 1996 Act read with Section 20(c) of the Code, there remains no doubt that the Chief Justice or the designate Judge of the Rajasthan High Court has jurisdiction in the matter. The question is, whether parties by virtue of Clause 18 of the agreement have agreed to exclude the jurisdiction of the courts at Jaipur or, in other words, whether in view of Clause 18 of the agreement, the jurisdiction of the Chief Justice of the Rajasthan High Court has been excluded?*

*32. For answer to the above question, we have to see the effect of the jurisdiction clause in the agreement which provides that the agreement shall be subject to jurisdiction of the courts at Kolkata. It is a fact that whilst providing for jurisdiction clause in the agreement the words like “alone”, “only”, “exclusive” or “exclusive jurisdiction” have not been used but this, in our view, is not decisive and does not make any material difference. The intention of the parties—by having Clause 18 in the agreement—is clear and unambiguous that the courts at Kolkata shall have jurisdiction which means that the courts at Kolkata alone shall have jurisdiction. It is so because for construction of jurisdiction clause, like Clause 18 in the agreement, the maxim expressio unius est exclusio alterius comes into play as there is nothing to indicate to the contrary. This legal maxim means that expression of one is the exclusion of another. By making a provision that the agreement is subject to the jurisdiction of the courts at Kolkata, the parties have impliedly excluded the jurisdiction of other courts. Where the contract specifies the jurisdiction of the courts at a particular place and such courts have jurisdiction to deal with the matter, we think that an inference may be drawn that parties intended to exclude all other courts. A clause like this is not hit by Section 23 of the Contract Act at all. Such clause is neither forbidden by law nor it is against the public policy. It does not offend Section 28 of the Contract Act in any manner.”*

30. What emerges from the aforesaid observations of the Supreme Court is that even if parties agree to incorporate an exclusive jurisdiction clause, they cannot confer jurisdiction on a Court which does not otherwise have jurisdiction to deal with the subject matter of the dispute and ouster of jurisdiction of some Courts is permissible so long as the Court on which the exclusive jurisdiction is conferred, has jurisdiction. It bears repetition to state that this Court has no territorial jurisdiction, as neither the Respondent carries on business within the territory of this Court nor any cause of action



has arisen and therefore, Clause 9 cannot be invoked and enforced to confer jurisdiction on this Court.

31. The judgments relied upon by the Petitioners cannot come to their advantage. In *Rita Nandwani (supra)*, preliminary objection was taken to the territorial jurisdiction of this Court in a petition under Section 11(6) of the 1996 Act. The Service Agreement therein contained a dispute resolution clause where the place of arbitration was designated as Bangalore only and the contention of the Respondent was that in the absence of a contrary indicia, place of arbitration was akin to a seat of arbitration and since the agreement specified jurisdiction at Bangalore only, that Court alone will have jurisdiction. Relying on the judgments of the Supreme Court in *Brahmani River Pellets Limited v. Kamachi Industries Limited, (2020) 5 SCC 462* and *BGS SGS SOMA JV v. NHPC Limited, (2020) 4 SCC 234*, the Court dismissed the petition on the ground that the venue of arbitration being Bangalore and there being no contrary indicia, Bangalore was the designated seat of arbitral proceedings and this Court had no jurisdiction.

32. In *Nexus Design (supra)*, the arbitration clause provided that Courts at Mumbai alone shall have jurisdiction to entertain and try all matters arising out of arbitration proceedings. Respondent had objected to the jurisdiction of this Court on the ground that parties had agreed to submit to the jurisdiction of Courts at Mumbai alone and therefore, this Court could not entertain the petition under Section 11(6) of the 1996 Act. Placing reliance on the judgment of the Supreme Court in *Swastik Gases (supra)*, petition was dismissed on the ground of lack of territorial jurisdiction giving effect to the exclusive jurisdiction clause but what is significant is that part





cause of action had arisen in Mumbai, which is not the case here as no cause of action has arisen in Delhi. Similarly, the judgment of the Supreme Court in *Emkay Global (supra)* will not aid the Petitioners. In the said case, the issue for consideration was an interplay between jurisdiction clause providing jurisdiction at Mumbai and place of arbitration being Delhi and thus the judgement is inapplicable.

33. The argument of the Petitioners that Respondent has a bank account in Delhi, as admitted before the Trial Court where complaints under Section 138 N.I. Act were filed by the Respondent and some transactions were carried out, is misplaced in the context of determining the territorial jurisdiction of this Court. This very plea was negated by this Court in *Faith Constructions (supra)* and I quote as follows :-

*“10. Territorial jurisdiction of a Court is ascertained having regard to the place of accrual of cause of action. Some of the relevant principles that have developed in this area of jurisprudence are, including but not limited to, that making and signing of a contract constitutes cause of action; that facts which are necessary to decide the lis between the parties must have wholly or at least in part, arisen within the territorial jurisdiction of the Court; that each fact pleaded in the petition would not ipso facto be considered relevant while determining cause of action and that they must have a nexus with the issues involved in the matter; and importantly, that an insignificant or trivial part of cause of action would not be sufficient to confer territorial jurisdiction, even if incidentally forming a part of cause of action.*

*11. Having discussed the prevalent legal position as to determination of accrual of cause of action, it is evident that for a fact to form part of the cause of action, it must be material and substantial in nature, in such a way that it effects the rights or obligations of the parties, and not incidental or remote thereto. Keeping in view the above, the factual position of the present case may be analysed.*

*12. In the present case, the subject agreement was indisputably executed and notarized in Odisha. The construction work under the said agreement also took place in Odisha. In fact, as noted before, even the respondent's principal place of business is in Odisha. Considering the aforesaid, this Court is of the considered opinion that the material part of cause of action*



*has arisen outside the territorial jurisdiction of this Court.*

*Insofar as the petitioner's contention as to the part payment being received in Delhi is concerned, it is noted that merely having its bank account branch in Delhi wherein part payment might be received, is not sufficient cause of action to give rise to this Court's jurisdiction. In fact, the payments so received are through cheques issued by the respondent from its bank account having its branch in Rajgangpur, Odisha. Mere depositing of said cheques in an account in Delhi cannot amount to payment being made in Delhi, especially in the absence of any 'payment clause' specifying where the payment is to be made and received, within the subject agreement. Notably, even though the bill may have been generated from the petitioner's address in Delhi, neither does it expressly or implicitly provide for place of payment, nor does it subject the disputes arising out of lack of payments regarding the said bills to the jurisdiction of Delhi. There is nothing to indicate, nor is it averred by the petitioner, that payment had to necessarily be made/received in Delhi. In such a case, having a bank account in Delhi where the petitioner may deposit the cheque issued to make payments, is a factum of no material consideration so as to justify accrual of cause of action. Therefore, it is wholly misconceived to rest the argument of accrual of cause of action on the strength of this singular fact, when the entire bundle of facts constituting the substantial and integral cause of action rests in Odisha.*

*13. In light of the aforesaid facts and considering the aforesaid legal position, it is held that no part of cause of action can be said to have arisen within Delhi, ousting this Court's territorial jurisdiction to entertain the present petition. Accordingly, the same is dismissed."*

34. Accordingly, it is held that this Court has no territorial jurisdiction to entertain these petitions and the first objection raised by the Respondent is decided in favour of the Respondent and against the Petitioners. Since this Court has no territorial jurisdiction in the matters, I am not delving into the second objection relating to the existence of the arbitration agreements and the issue is left open.

35. The petitions are dismissed for want of territorial jurisdiction with liberty to the Petitioners to take recourse to legal remedies before the Court of competent jurisdiction, making it clear that this Court has not expressed any opinion on merits of the cases.



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**O.M.P.(I) (COMM.) 412/2023 and I.A. 2708/2025, 2709/2025,**  
**O.M.P.(I) (COMM.) 151/2024 and**  
**O.M.P.(I) (COMM.) 152/2024**

36. For the aforesaid reasons, this Court has no territorial jurisdiction to entertain these petitions and the same are dismissed for want of jurisdiction, with liberty to the Petitioners to approach the Court of competent jurisdiction for seeking the reliefs sought in the present petitions. Pending applications also stand disposed of.

**JYOTI SINGH, J**

**NOVEMBER 18, 2025/KA**