IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12650 OF 2025

The Baroda Rayon Corporation Limited ..Petitioner

Versus

Thermax Limited …Respondent

Mr. N.R. Pradhan, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE : 18th AUGUST 2026

ORDER:

1. Heard Mr. N. R. Pradhan, the learned Counsel for the Petitioner.

2. The challenge in this Petition is to an order dated 28th July 2025, whereby the learned Judge, City Civil Court, dismissed the Notice of Motion taken out by the Petitioner-Defendant in Commercial Suit No. 94 of 2024 (Old High Court Commercial Summary Suit No. 8 of 1999) for dismissing the Suit for want of jurisdiction.

SAINATH SANJAY BODKHE

Digitally signed by SAINATH SANJAY BODKHE
Date: 2026.08.24 20:42:28 +0530

3. The Respondent-Plaintiff had sold and delivered to the Defendant two 2.8 mkcal/hr heat capacity, TP-28 model Thermic fluid heater and the various parts of the said heaters pursuant to the purchase orders placed by the Defendant, and the invoices and the bills raised by the Plaintiff. Towards the said liability, an amount of Rs. 1,70,81,436/- remained outstanding. The Plaintiff thus instituted the suit for recovery

of the outstanding amount alongwith interest at the rate of 20% per annum, in the year 1999.

4. In the year 2025, the Defendant took out the Notice of Motion seeking the dismissal of the suit *inter alia* on the ground that no part of cause of action had arisen within the local limits of the territorial jurisdiction of the City Civil Court at Mumbai as the purchase order was placed at Pune and the equipments were delivered at Fatehnagar, Surat, Gujarat and that the registered office of the Defendant was also located at Fatehnagar, Gujarat.

5. By the impugned order, the learned Judge, City Civil Court was persuaded to dismiss the Notice of Motion observing *inter alia* that the objection as to the territorial jurisdiction was taken at a belated stage and that too after filing a counter-claim. The Notice of Motion was taken out to further delay the disposal of the Suit which awaited adjudication more than 25 years.

6. Mr. Pradhan, the learned Counsel for the Petitioner, made an endeavour to demonstrate that the learned Judge, City Civil Court has not kept in view the correct principles in determining the aspect of the territorial jurisdiction of the City Civil Court to entertain, try and decide the suit.

7. The submissions on behalf of the Petitioner deserve to be noted to be repelled, for the reasons more than one. Firstly, under no

circumstances, a suit can be dismissed for want of territorial jurisdiction at the threshold. Secondly, the filing of the counter-claim by the Defendant runs counter to the contention of the Defendant that the City Civil Court has no jurisdiction to entertain, try and decide the suit. Thirdly, it is well-recognized, an objection as to the territorial jurisdiction of the Court is required to be taken at the earliest possible opportunity. The Notice of Motion was taken out by the Defendant after more than 25 years of the institution of the suit when it was posted for the cross-examination of the Plaintiff's witnesses. The delay is simply inordinate. Lastly, at any rate, in paragraph 17 of the Plaint, the Plaintiff has made averments to the effect that the bills were raised on the Defendant at Mumbai, and the Defendant was carrying on business for gain at Mumbai.

8. Therefore, at this length in time, this Court does not find any justifiable reason to interfere with the impugned order.

9. The Petition thus stands dismissed.

10. Since the learned Judge, City Civil Court has imposed a substantial costs of Rs. 1,00,000/-, this Court refrains from imposing further costs.

[N. J. JAMADAR, J.]