



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

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Date of Decision: 06.02.2026

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FAO 109/2019

M/S MODI MUNDIPHARMA BEAUTY PRODUCTS PRIVATE
LIMITEDAppellant

Through: Mr. Piyush Sharma and Ms. Shweta
Singh, Advocates.

versus

M/S LAXMI SALES CORPORATIONRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CM APPL. 12026/2019 (Delay)

1. The present application has been filed seeking condonation of delay of 34 days in filing the accompanying appeal.
2. For the reasons stated in the application, the same is allowed, and the delay is condoned.
3. The present application is disposed of in the above terms.

FAO 109/2019

1. The present appeal has been filed under Section 104(1)(i) read with Order XLIII of the Code of Civil Procedure, 1908 (hereinafter "CPC") seeking setting aside of the order dated 06.10.2018 passed by the learned ADJ, South East-05, *Saket Courts*, in CS No. 594/2017.

By way of the impugned order, the application filed by the respondent



herein under Order VII Rule 11 CPC was allowed and the plaint was directed to be returned under Order VII Rule 10(1) CPC for presentation before the Court of competent jurisdiction.

2. A perusal of the proceedings in the present case shows that after issuance of notice in the present matter, counsel duly entered appearance on behalf of the respondent. However, the respondent remained unrepresented for several dates; consequently, this Court, *vide* order dated 13.01.2026, made it clear that the matter would be heard on the next date of hearing. On the next date, i.e., 22.01.2026, the respondent again remained unrepresented and was accordingly proceeded *ex parte*.

3. The appellant/plaintiff (hereinafter the “plaintiff”), a company engaged in the cosmetics business, instituted the underlying suit against the respondent/defendant (hereinafter the “defendant”) seeking recovery of Rs.15,51,420/- along with interest @ 12% per annum. The plaintiff averred that the defendant was appointed as its “Clearing and Forwarding” agent *vide* agreement dated 21.01.2013 (hereinafter the “Agreement”), but business dealings were discontinued in April 2014. The dispute between the parties primarily relates to the defendant’s alleged illegal withholding of the plaintiff’s stock at *Nagpur*, following the termination of their business relationship.

4. The defendant filed the subject application under Order VII Rule 11 CPC praying for rejection of the plaint on the grounds that (i) the Trial Court lacked territorial jurisdiction to adjudicate the said dispute; and (ii) the suit was barred by limitation. The defendant submitted that the alleged wrong to the goods occurred within the territorial limits of the city of *Nagpur*, where the defendant also resides and carries on business. It was further contended that no cause of action arose within the territorial jurisdiction of the Trial



Court; rather, its jurisdiction was challenged as having been invoked solely based on Clause 12 of the Agreement, which stipulates that the Courts at *Delhi* shall have exclusive jurisdiction over any disputes arising therefrom, despite the Agreement itself not having been executed in *Delhi*.

5. The plaintiff filed its reply to the said application, stating that the question of territorial jurisdiction is a mixed question of law and fact, which could not be decided at the concerned stage without framing of issues. It was submitted that the Agreement was executed between the parties in *Delhi* and the plaintiff specifically relied upon Clause 12 of the same, which clearly stipulates that any dispute arising therefrom shall be adjudicated by the Courts at *Delhi*. It was further averred that subsequent transactions between the parties regarding stock and payments occurred at the plaintiff's registered office in *Nehru Place, New Delhi*, falling within the Trial Court's jurisdiction. The plaintiff also submitted that, at the stage of considering an application under Order VII Rule 11 CPC, the defendant's written statement is irrelevant; and that the Trial Court must proceed on the assumption that the averments in the plaint are correct, and the plaint in the present case did not *ex facie* disclose that the suit was barred by limitation or any other law.

6. The Trial Court, while passing the impugned order, concluded that the suit was essentially premised on the wrong done to the goods lying in the defendant's warehouse in *Nagpur*. In view of the same and applying the mandate of Section 19 CPC, the Court held that such a suit could be instituted, at the plaintiff's option, only where the wrong was committed or where the defendant resides or carries on business, and neither of those conditions were met in *Delhi*. The Court observed that Section 20 CPC, being a residuary provision, had no application to the facts of the present case. Consequently, the Trial Court declared Clause 12 of the Agreement to



be *non est* in the eyes of law, as the parties could not, by agreement, assign jurisdiction to a Court that did not otherwise have it. No findings were returned on the aspect of limitation, and the plaint was directed to be returned under Order VII Rule 10(1) CPC for presentation before the Court of competent jurisdiction.

7. Before this Court, learned counsel for the plaintiff contended that the Trial Court had exceeded its jurisdiction under Order VII Rule 11 CPC by adjudicating upon disputed questions of fact without a detailed inquiry. He stated that since a part of the cause of action had arisen within its territorial jurisdiction, the Trial Court was competent to try the suit and erred by returning the plaint.

8. A perusal of the record indicates that the plaintiff had categorically averred in the plaint that the Agreement was executed between the parties at the registered office of the plaintiff in *Nehru Place, Delhi*, and that all the further transactions regarding the stock and payments between the parties also took place at the said registered office. *Ex facie*, the same clearly reflects that at least a part of the cause of action arose within the territorial jurisdiction of the Trial Court.

9. As pleaded in the plaint, the plaintiff has based its claim on breach of the Agreement that was allegedly executed in *Delhi*, and not a wrong done to the goods of the plaintiff by the defendant, for Section 19 CPC to apply and conclusively rule out the applicability of Section 20 CPC, at this pre-trial stage. The territorial jurisdiction of the Court was claimed based on the accrual of cause of action in *Delhi*. Clause 12 of the Agreement too confined the jurisdiction to *Delhi* Courts. Purely from the averments made in the plaint, it does not seem to be a case of conferment of jurisdiction to a Court where none exists.



10. It is trite that in an application seeking rejection of a plaint, the Court is required to satisfy itself as to whether the suit is barred by law, solely on the basis of the statements made in the plaint. The law is well settled that, at this stage, the Court cannot look into the defence of the defendant or any material *dehors* the plaint. As held by the Supreme Court in Popat and Kotecha Property Vs. SBI Staff Association¹, Order VII Rule 11(d) CPC applies only where the statement in the plaint, without any doubt or dispute, shows that suit is barred by law.

11. The Trial Court went beyond the well-settled scope of inquiry while considering an application under Order VII Rule 11 CPC by summarily deciding that no part of the cause of action had arisen in *Delhi*, when all the Trial Court was required to do at the given juncture was to settle whether the averments in the plaint, taken at face value, along with the supporting documents disclosed a cause of action within its jurisdiction.

12. Whether the Agreement was executed in *Delhi* as claimed by the plaintiff, or in *Nagpur*, as contended by the defendant, is a triable issue. It will be open to the defendant to prove, by leading evidence and subject to the necessary pleadings, that the claim pertains to a wrong done to the goods instead of breach of Agreement, so as to attract Section 19 CPC and not Section 20 CPC, as alleged by the plaintiff.

13. In Chhotanben Vs. Kiritbhai Jalkrushnabhai Thakkar², the Supreme Court has categorically held that a plaint cannot be rejected at the threshold stage if the grounds for rejection raise triable issues of fact.

14. Considering all the above, this Court is of the considered view that the impugned order must be set aside. Accordingly, the present appeal is

¹ (2005) 7 SCC 510

² (2018) 6 SCC 422



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allowed, and the matter is remanded back to the Trial Court for adjudication on merits.

15. The matter shall be listed before the concerned Trial Court at the first instance on 02.03.2026.

16. The present appeal is disposed of in the above terms.

17. A copy of this judgment be communicated to the concerned Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

FEBRUARY 06, 2026

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