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

+ **CM(M)-IPD 32/2025**

**MR. NITIN GURGORIA, PROPRIETOR OF M/S NEW
UTKARSH INDUSTRIES AND ANR.Petitioners**

Through: Mr. Vishwendra Verma, Ms. Shivali,
Mr. Abhishek Nagar and Mr. Abhidya S. Verma,
Advocates.

versus

KISAN IRRIGATIONS AND INFRASTRUCTURE LTD.

.....Respondent

Through: Mr. Sudarshan Kumar Bansal, Ms.
Namrata Jain, Mr. Shivendra Pratap Singh and Ms.
Nishtha Kapoor, Advocates.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER
28.01.2026**

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CM 184/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M)-IPD 32/2025 & CM 185/2025

3. This petition is filed by the Petitioners under Article 227 of the Constitution of India laying challenge to the impugned order dated 04.06.2025, whereby the learned Commercial Court has dismissed the application of the Petitioners herein under Order VII Rule 11 CPC, in effect treating it as one under Order VII Rule 10 CPC since the only objection raised was with respect to the territorial jurisdiction of the Court.



4. I may also note for the sake of completeness that while deciding the application, the Commercial Court referred to the judgment of this Court passed in case titled as *M/s Allied Blenders & Distillers Pvt. Ltd. v. R.K. Distilleries Pvt. Ltd., 2017 SCC OnLine Del 7224*, whereby this Court held that an application under Order VII Rule 10 CPC differs from an application under Order XXXIX Rules 1 and 2 CPC and even if the application under Order VII Rule 10 CPC is dismissed, the objection can be taken at a subsequent stage of the suit.

5. At this stage, Mr. Vishwendra Verma, learned counsel for the Petitioners, on instructions, seeks to withdraw this petition with liberty to raise the objection of territorial jurisdiction at the appropriate stage.

6. Without going into the merits of this case, this petition along with pending application is disposed of as withdrawn with liberty as prayed for in accordance with law.

JYOTI SINGH, J

JANUARY 28, 2026/AK