

15.05.2024

Present : Mr. Dheeraj Kumar, Ld. Counsel for the plaintiff  
alongwith plaintiff in person.  
Mr. Abhishek Garg, Ld. Counsel for the defendant  
alongwith defendant in person.

Ld. Counsel for the defendant submits that he has filed the application under Order 7 Rule 10 of CPC on two grounds. One ground is that this Court does not have territorial jurisdiction to decide the present suit. The second ground is that it is the Commercial Court and not the Civil Court which has jurisdiction to decide the suit in question.

He further states that he is now not pressing his claim that it is the Commercial Court which has jurisdiction. He concedes that it is a Civil Court which has jurisdiction to decide a suit which is in the nature as is the present suit.

His statement to this effect is recorded separately.

In view of his statement, his application under Order 7 Rule 10 of CPC will be considered as having been filed only on the ground that this Court lacks territorial jurisdiction.

The application is now taken up for consideration.

It is stated in the plaint that this Court has territorial jurisdiction to decide the present case since cause of action arose within the territorial jurisdiction of this Court since loan amount was paid at Sarojini Nagar and loan agreement was executed at Sarojini Nagar.

This has been denied by the defendant in his application under Order 7 Rule 10 of CPC. It is stated in the application that the defendant never visited the shop of the plaintiff at Sarojini Nagar and cause of action actually arose at Sahibababd, Ghaziabad.

Arguments have been heard and record has been perused.

The present case is a suit for recovery instituted under Order 37 of CPC. The case is at the stage of deciding application for leave to defend. When the parties have not led any evidence till now, there is no material on record on the basis of which the Court can decide which of the two parties have stated the truth about the cause of action. At this stage, the Court cannot believe the averment of the defendant that the cause of action arose in Sahibabad and not in Sarojini Nagar and thereby return the plaint.

If leave to defend is granted to the defendant and parties are granted an opportunity to lead evidence, it will then be determined after analyzing the evidence, if the averment of the plaintiff that cause of action arose in Sarojini Nagar is correct or if the averment of the defendant that the transaction took place in Sahibabad is correct.

In view of the above observation that the Court cannot at this stage give a finding that cause of action did not arise in Sarojini Nagar, the application of the defendant under Order 7 Rule 10 of CPC is dismissed.

Application for leave to defend has been filed.

Ld. Counsel for the plaintiff submits that he will file reply to the application.

Let advance copy of the reply be supplied to the Ld. Counsel for the defendant atleast 15 days prior to the next date of hearing.

To come up for arguments on the application for leave to defend on 01.10.2024.

(Shirish Aggarwal)  
District Judge-03  
Patiala House Courts, New Delhi  
15.05.2024