

**AUSTRO LABS LTD.
VS.
S.K. TANDON**

30.10.2023

Present: Mr. Gaurav Garg, Ld. Counsel for the plaintiff.
Mr. Gautam Singh, Ld. Counsel for the defendant (through VC).

ORDER

1. Arguments heard on the application of the defendant under Order 7 Rule 10 CPC.
2. Ld. Counsel for the defendant submits that the plaintiff has filed the present suit for recovery of Rs. 77,14,657/- along with interest against the defendant. He submits that the present suit is not maintainable within the jurisdiction of this court as the defendant is resident and works in Lucknow, U.P. He further submits that the defendant has not carried out any transaction or work in Delhi with plaintiff, which is within the territorial jurisdiction of this court. It is further averred that no cause of action has occurred in Delhi. It is also stated that the defendant has no office or work in Delhi, therefore, this court cannot have the territorial jurisdiction. It is argued that since the delivery of goods were taken in Lucknow, U.P. and the order was also placed by the employees of plaintiff, who work in Lucknow, U.P., therefore, there is no cause of action which can have said to be arisen in Delhi. It is further averred that the defendant is 65 years of age and resident of Lucknow, U.P., therefore, the plaint must be returned to Lucknow as continuation of the present suit in Delhi would cause undue hardship to the defendant.

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3. *Per contra*, Ld. Counsel for the plaintiff submits that the plaintiff company is only working and running its business for gain in Delhi and the defendant has been placing orders at Delhi, upon the plaintiff company through e-mails for supply of Pharmaceuticals, Cosmetic Ayurvedics, Dietary-supplements and medicines. It is further stated that the goods were supplied by the plaintiff company from Delhi to the defendant at Lucknow, U.P from time to time vide various invoices. Even the payments were received by the plaintiff in Delhi. It is stated that since part of cause of action has arisen at Delhi, therefore, this court has a territorial jurisdiction to entertain the present suit.

4. Heard. Record Perused.

5. On a bare perusal of plaint at para no. 4, it is found that the goods were delivered from Delhi to Lucknow, U.P. The defendant has not disputed the aforesaid aspect in his WS. In para no. 9 of the WS, he has admitted that the supplies were sent by the plaintiff from Delhi to the defendant in Lucknow, U.P. only and therefore, this court is of the considered view that this court has jurisdiction to entertain the present suit as being maintainable within the territorial jurisdiction of this court. Accordingly, the application of the defendant under Order 7 Rule 10 is dismissed.

6. Be put up for PE on **02.02.2024**.

Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi
30.10.2023