

IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,
BHARUCH.

Special Civil Suit No. 32 of 2017.

<u>Plaintiff :</u>	Mihir Harishbhai Trivedi Proprietor of Ravi Construction. Bharuch.
<u>Versus</u>	
<u>Defendant :</u>	M/s. Anupam Industries Ltd. Anand.

-:: ORDER BELOW EXH.12 ::-

(1) Present application has been filed by the defendant M/s. Anupam Industries Ltd., under Order-7 Rule-10 of the Code of Civil Procedure to return the plaint before the appropriate Court i.e. Court of Anand City.

(2) It is the submission and request of the defendant that plaintiff has filed this suit by suppressing material fact. Thus, it has not produced the Purchase Order. Because in the purchase order specific note about jurisdiction is mentioned i.e. subject to "Anand City jurisdiction". So, the dispute arose between the parties can be heard and decided by Anand City Court only. Therefore, this court has no jurisdiction. With this request and submission, present application has been filed.

(3) Plaintiff has filed objection at Exh.14 and submitted that application filed by defendant is false and frivolous. In Purchase Order, there is no note regarding subject to

"Anand City jurisdiction". So, application is not maintainable. Plaintiff has requested to reject the application. Also submitted that the previous payment and also purchase order is placed at Bharuch. Thus, this Court has jurisdiction to decide this suit.

(4) Heard Ld. Advocate of the defendant Mr. Dhaval B. Bhatt and Ld. Advocate Mr. R. J. Mehta of the plaintiff. They have urged as per their pleadings.

(5) Perusing the record and proceeding and keeping in mind the argument advanced by both the parties. Therefore, it appears that this application is filed by defendant at Exh.12 with request to return the plaint in appropriate court under Order-7 Rule-10 of the Code of Civil Procedure, 1908. The contention and main submission of defendant is that the Purchase Order, which is placed by defendant, wherein specific note that "subject to Anand Jurisdiction" was mentioned. So, this court has no jurisdiction. Initially, plaintiff has not produced the subjected Purchase Order, later on, defendant has produced the Purchase Orders at Mark-15/1 to 15/14. Perusing, these Purchase Orders, it transpires that in Purchase Order at Mark-15/1 to 15/3 only note that "Anand Jurisdiction" was mentioned. Except these there is no any understanding or clause regarding

selection of jurisdiction. At this juncture, let me clarified that party of the contract may choose the jurisdiction of either or any one court, if there is two courts or more courts have jurisdiction. But, merely simple note on any bill or purchase order like "Subject to Anand City" it can not be said that both parties have willfully agreed to exclude the jurisdiction of any one court and choose/select the jurisdiction of any special court which have ordinary jurisdiction.

(6) Further the law on this point is very much settled, ***the Hon'ble Andhara Pradesh High Court, in the case of M/s. Prakash Road Lines (Pvt) Ltd. and others V/s. HMT Bearing Ltd., reported in AIR 1990 A.P. Page No.106, Appeal No.22/1995 dated 16.07.1998.*** Wherein, the subject matter of one transport receipt. In that transport receipt, it was mentioned that subject tocity, jurisdiction. Wherein Hon'ble High Court has held that by putting such type of note in any bill or receipt, the jurisdiction of competent court is not excluded. This judgement covered the dispute of this case. Thus, in this case as there is note regard Anand Jurisdiction, jurisdiction of this court can not be excluded. For all these reasons the argument placed by Ld. advocate Mr Bhatt is not acceptable. Further, the issue of

jurisdiction more particular in this case like such which is involved the question of fact as well as question of law. So on the basis of this application it can not be held that this court has no jurisdiction. Hence, this application is deserve to be dismissed. Thus, following order is passed. Also defendant by filing this application has consumed the valuable time of the court and also lingered this matter. So, it is just and proper to pass an order for cost. Hence, following order is passed.

-:: ORDER ::-

(1) The Special Civil Suit NO.32 of 2017, wherein, an application at Exh.12 filed by defendant M/s. Anupam Industries Ltd. Anand under Order-7 Rule-10 is hereby rejected.

(2) It is hereby ordered that the defendant shall pay **Rs.500/- (Rupees Five Hundred Only)** towards costs of this application to the plaintiff.

(3) It is further clarified that the issue of jurisdiction shall be heard and decided in final judgement.

Order passed today on 6rd October-2018 in open Court.

Date:06/10/2018. **(Manoj Bhailalbhai Kotak)**
Vora Principal Senior Civil Judge,
Bharuch.Code-GJ00718