

MHKO070005372022 	<u>Order below Exh. 25 in Special Civil Suit</u> <u>No.18/2022.</u> Nikhil Services Vs. Shri. Tatyasaheb Kore Warana Sah. Sakhar Karkhana Ltd.,
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The defendant has filed present application under Order 14 Rule 5 of the Code of Civil Procedure, 1908 to frame the additional issue regarding jurisdiction of this Court to try and entertain the present suit. The plaintiff has filed his say and objected the application.

2. Heard both sides. Perused the record. Read the written notes of argument (Exh.26) filed by the defendant. The learned advocate for the defendant has submitted that the dispute between the plaintiff and the defendant is a commercial dispute within the meaning of the provisions of the Commercial Court Act, 2015. Moreover, the amount claimed by the plaintiff is more than three lakhs. Hence, the present suit is required to be tried and entertained by the Commercial Court. This Court does not have jurisdiction to try and entertain the present suit. It is further alleged by the defendant that the present suit is mainly based on purchase order regarding the spare parts and services. As per section 20 of the Code of Civil Procedure the suit was required to be instituted where the defendant resides. The defendant does not reside in the jurisdiction of this Court. Therefore, it is necessary to frame the issue regarding the jurisdiction of this Court. Thus, the learned advocate for the defendant has prayed to allow the application. On the other hand, learned advocate for the plaintiff has submitted that this Court has jurisdiction to try and entertain the present suit. Hence, he has prayed to reject the application.

3. The defendant has filed his written statement (Exh.12) and contested the suit. The defendant by way of present application has prayed to frame the issue regarding the territorial jurisdiction of this Court to entertain the present suit. However, in the written statement (Exh.12), the defendant has not averred that this Court does not have territorial jurisdiction to entertain the present suit. It appears that the defendant by way of filing present application first time has raised the said objection. Therefore, the provisions of Section 21(1) of the Code of Civil Procedure are applicable. It reads as under :-

No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement and unless there has been a consequent failure of justice.

Thus, it is clear that the objection as to place of suing shall be taken at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement. In the present case, the issues (Exh.13) are already framed. Furthermore, the defendant has not raised the objection regarding the territorial jurisdiction in his written statement. It is evident that the defendant has not specifically denied the averments made in the plaint regarding the territorial jurisdiction of this Court, in his written statement. Furthermore, it appears that the cross-examination of the plaintiff is already completed. Therefore, at this stage of the proceeding the defendant cannot take objection regarding the territorial jurisdiction of this Court. Hence, the additional issue regarding the same cannot be framed.

4. The present suit is based on a purchase order of spare parts and services provided by the plaintiff to the defendant and it is for recovery of amount of Rs.14,22,790/-. Therefore, the dispute comes

under the definition of commercial dispute. It is evident that the specified value of the present suit is Rs.14,22,790/-. However, section 3(1A) of the Commercial Court Act, 2015 empowers the State government to specify pecuniary value of the commercial suit after consultation with the concern High Court by issuing Notification. The pecuniary value refers to pecuniary jurisdiction of the commercial court. The Maharashtra government has issued a Notification dated 03.07.2019 under the said provision which is as follows :-

NOTIFICATION

COMMERCIAL COURTS ACT, 2015

No. SPC. 1319/162/C.R. 36/IX.—In exercise of the powers conferred under sub-section (1A) of section 3 of the Commercial Courts Act, 2015 (No. 4 of 2016), as amended by the Amendment Act, 2018 (No. 28 of 2018), the Government of Maharashtra, after consultation with the High Court of Bombay, hereby specifies the pecuniary value at Rs.50,00,000 (Rupees Fifty Lacs only) for the whole of the State of Maharashtra.

In view of aforesaid Notification, it is clear that the Commercial Court can entertain the commercial suit only if its pecuniary value is more than Rs.50,00,000/-. In the present suit the plaintiff has sought recovery of only amount of Rs.14,22,790/-. Therefore, on the face of record it appears that the Commercial Court cannot entertain the present suit. This Court has jurisdiction to try and entertain the present suit. In such circumstances, it is not necessary to frame the additional issue as prayed by the defendant.

5. The learned advocate for the defendant has relied on Asean

International Ltd., and other v. State of Bank of India and ors., DLD (Civil)-2026-3478. However, the facts of the present application and of that case are different. The said case is not in respect of framing of issues. Therefore, the ratio laid down in that case is not helpful to the defendant. In view of above discussion, the application is liable to be rejected. In the result, I pass following order :-

ORDER

The application (Exh.25) is rejected.

Date: 10.03.2026.

(P A. Patil)
Jt. Civil Judge Senior Division,
Jaysingpur.