



**ORDER BELOW EXH. 16 IN R.C.S.
No. 120/2022.**

Swapnil Sureshrao Shinde Vs. Sagar Krushnat Patil

CNR – MHKO130010382022

1. This application filed by the defendant under the Order 7 Rule 11 of the Code of Civil Procedure (In short 'CPC'). According to the defendant the suit is filed for recovery of amount. It is averred that, there is no cause of action in the suit. Further jurisdiction of this Court is barred as the cause of action is referred at different place. Apart from that transaction taken place between the parties is outside of the jurisdiction of this Court, and therefore vide Order 7 Rule 11 this Court has not jurisdiction to try and entertain the subject matter. Learned advocate of the defendant relied on case law **Rajastan State Raod Transport Vs. Bal Mukund 2009(3) Civil LJ 300 (SC)**, accordingly argued to reject the plaint.

2. Contrary say to this application filed by the plaintiff below Exh. No. 18. The learned advocate of the plaintiff submitted that, cause of action is specifically referred in the plaint paragraph No. 4, 5, 6. Apart from that though the transaction is taken place at different place the defendant is working within jurisdiction of this Court, beside that pre suit notice is issued to the defendant. However, the defendant has failed to reply that notice. It is submitted that to prolong the matter this application is filed. Hence, learned advocate of the plaintiff urged to reject the application with costs.

3. Perused the record, heard the learned advocate of both the parties.

4. At this juncture, for deciding the matter under Order 7 Rule 11 of the C.P.C., only contents of the plaint are required to be considered. There are averments in the plaint that, agreement is executed between the parties at Kagal. So far as question of cause of action is concerned, the same is bundle of fact, for which comprehensive evidence is require to be conducted. Now, considering the jurisdiction clause referred u/s. 20 of Code of Civil Procedure, the plaintiff can institute in the suit where the defendant resides or personally works for gain.

5. In the present matter service address of defendant is indicated as M.I.D.C. Kagal, serving in Kirloskar Oil Engine that address of defendant is not denied. Thus, considering section 20 of C.P.C. with address referred in the plaint and same being admitted to the defendant, this Court has jurisdiction to try and entertain this suit. Further, the learned advocate of defendant failed to file the ratio laid down in the case law referred in the application. Therefore, with due respect the same is not considered. Accordingly, as the application is devoid of merit. The same is not tenable. Hence, following order is passed:-

ORDER.

1. The application (Exh. 16) is rejected.
2. There is no order as to costs.

Kagal
Date:- 25/08/2023

(B. D. Gore)
Civil Judge Junior Division,
Kagal.