

5 CS (COMM) 163/25
AMIT DIWAKAR
Vs.
M/S KR ENTERPRISES

29.04.2025

Present: Sh. S.D. Windlesh, Ld. Counsel for plaintiff.

One miscellaneous application has been filed regarding clarification along with certain documents and certificate u/s 63 of BSA, 2023. No application specifically has been filed by the plaintiff for taking on record the additional documents which now the plaintiff wishes to file. Also, though clarifications have been furnished by way of a miscellaneous application, no application has been specifically moved under Order VI Rule 17 CPC for amendment of the plaint. Be that as it may.

Perusal of the file reveals that the non-starter report has been issued only in respect of defendant no.1 to 3. The present suit was instituted on 12.03.2025. Thereafter, the plaintiff has gone for pre-institution mediation and settlement against defendant no.4 and the non-starter report in respect of defendant no.4 has been issued on 19.04.2025 i.e. after the institution of the present case. The plaint therefore, suffers from inherent technical defect and has to be returned to be refiled again.

Perusal of the file also reveals that none of the defendants are residing or working for gain within the territorial jurisdiction of the present Court. The plaintiff in para no.16 has stated that plaintiff works for gain in Delhi. On the basis of this averment, the present Court can not have territorial jurisdiction to try and decide the present suit. Though, it is stated that cause of action also arose within the territorial jurisdiction of the present Court, but there is no averment in the entire plaint as to how and which cause of action

has arisen within the territorial jurisdiction of the present Court. The place where the plaintiff rendered its services is also not within the territorial jurisdiction of the present Court.

Today, the plaintiff has filed bank account statement showing receiving of the payment from the defendant. This bank account statement reveals that the bank account of the plaintiff is at his native place in Muradabad, U.P. and therefore, the payment from the defendant pursuant to the services rendered by the plaintiff has also not been received within the territorial jurisdiction of the present Court. In such circumstances, the present Court does not have territorial jurisdiction to try and decide the present suit.

Further, as already observed, the suit has to be refiled due to the fact that the non-starter report against defendant no.4 has been issued on 19.04.2025.

In view of the above, the plaint of the plaintiff is required to be returned as no part of the cause of action has arisen within the territorial jurisdiction of the present court and the present court does have not territorial jurisdiction to try and decide the present suit.

The original suit along with documents and annexures, court fees, etc. be returned to the plaintiff under Order VII Rule 10 CPC for filing it in the court having appropriate jurisdiction as per rules after due endorsement.

File be consigned to Record Room after due compliance.

(Kiran Bansal)
District Judge, Commercial Court-02,
Shahdara District, Karkardooma Courts,
Delhi /29.04.2025.